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**HANDGUN CRIME CONTROL—1975—1976**

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**HEARINGS**  
BEFORE THE  
**SUBCOMMITTEE TO INVESTIGATE**  
**JUVENILE DELINQUENCY**  
OF THE  
**COMMITTEE ON THE JUDICIARY**  
**UNITED STATES SENATE**  
NINETY-FOURTH CONGRESS  
FIRST SESSION

Pursuant to S. Res. 72, Section 12

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INVESTIGATION OF JUVENILE DELINQUENCY IN THE  
UNITED STATES

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**Oversight of 1968 Gun Control Act—The Escalating Rate of  
Handgun Violence**

**Volume I**

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APRIL 23, JULY 22, OCTOBER 28, 1975

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†Senator Tunney resigned on May 7, 1975.



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Public Law 90-618  
90th Congress, H. R. 17735  
October 22, 1968

## An Act

To amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Gun Control Act of 1968". Gun Control  
Act of 1968.

### TITLE I—STATE FIREARMS CONTROL ASSISTANCE

#### PURPOSE

SEC. 101. The Congress hereby declares that the purpose of this title is to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence, and it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes, or provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title. 82 STAT. 1213  
82 STAT. 1214

SEC. 102. Chapter 44 of title 18, United States Code, is amended Ante, p. 226. to read as follows:

#### "Chapter 44.—FIREARMS

"Sec.

"921. Definitions.

"922. Unlawful acts.

"923. Licensing.

"924. Penalties.

"925. Exceptions: Relief from disabilities.

"926. Rules and regulations.

"927. Effect on State law.

"928. Separability clause.

#### "§ 921. Definitions

"(a) As used in this chapter—

"(1) The term 'person' and the term 'whoever' include any individual, corporation, company, association, firm, partnership, society, or joint stock company.

"(2) The term 'interstate or foreign commerce' includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

"(3) The term 'firearm' means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

"(4) The term 'destructive device' means—

"(A) any explosive, incendiary, or poison gas—

"(i) bomb,

"(ii) grenade,

"(iii) rocket having a propellant charge of more than four ounces,

"(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

"(v) mine, or

"(vi) device similar to any of the devices described in the preceding clauses;

"(B) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

"(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term 'destructive device' shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684 (2), 4685, or 4686 of title 10; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting purposes.

"(5) The term 'shotgun' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

"(6) The term 'short-barreled shotgun' means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than twenty-six inches.

"(7) The term 'rifle' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

"(8) The term 'short-barreled rifle' means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

"(9) The term 'importer' means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term 'licensed importer' means any such person licensed under the provisions of this chapter.

"(10) The term 'manufacturer' means any person engaged in the manufacture of firearms or ammunition for purposes of sale or dis-

82 STAT. 1214

82 STAT. 1215

70A Stat. 263.



tribution; and the term 'licensed manufacturer' means any such person licensed under the provisions of this chapter.

"(11) The term 'dealer' means (A) any person engaged in the business of selling firearms or ammunition at wholesale or retail, (B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker. The term 'licensed dealer' means any dealer who is licensed under the provisions of this chapter.

"(12) The term 'pawnbroker' means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm or ammunition as security for the payment or repayment of money.

"(13) The term 'collector' means any person who acquires, holds, or disposes of firearms or ammunition as curios or relics, as the Secretary shall by regulation define, and the term 'licensed collector' means any such person licensed under the provisions of this chapter.

"(14) The term 'indictment' includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

"(15) The term 'fugitive from justice' means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

"(16) The term 'antique firearm' means—

"(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

"(B) any replica of any firearm described in subparagraph (A) if such replica—

"(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

"(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

"(17) The term 'ammunition' means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

"(18) The term 'Secretary' or 'Secretary of the Treasury' means the Secretary of the Treasury or his delegate.

"(19) The term 'published ordinance' means a published law of any political subdivision of a State which the Secretary determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Secretary, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.

Publication in  
Federal Register.

"(20) The term 'crime punishable by imprisonment for a term exceeding one year' shall not include (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Secretary may by regulation designate, or (B) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

"(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.

## "§ 922. Unlawful acts

"(a) It shall be unlawful—

"(1) for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing,

manufacturing, or dealing in firearms or ammunition, or in the course of such business to ship, transport, or receive any firearm or ammunition in interstate or foreign commerce;

"(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm or ammunition to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that—

"(A) this paragraph and subsection (b) (3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, or licensed dealer for the sole purpose of repair or customizing;

"(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

"(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

"(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a rifle or shotgun obtained in conformity with the provisions of subsection (b) (3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

"(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machine-gun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity;

"(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe resides in any State other than that in

which the transferor resides (or other than that in which its place of business is located if the transferor is a corporation or other business entity); except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes; and

"(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter.

"(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—

"(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age.

"(2) any firearm or ammunition to any person in any State where the purchase or possession by such person of such firearm or ammunition would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

"(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of a rifle or shotgun to a resident of a State contiguous to the State in which the licensee's place of business is located if the purchaser's State of residence permits such sale or delivery by law, the sale fully complies with the legal conditions of sale in both such contiguous States, and the purchaser and the licensee have, prior to the sale, or delivery for sale, of the rifle or shotgun, complied with all of the requirements of section 922(c) applicable to intrastate transactions other than at the licensee's business premises, (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes, and (C) shall not preclude any person who is participating in any organized rifle or shotgun match or contest, or is engaged in hunting, in a State other than his State of residence and whose rifle or shotgun has been lost or stolen or has become inoperative in such other State, from purchasing a rifle or shotgun in such other State from a licensed dealer if such person presents to such dealer a sworn statement (i) that his rifle or shotgun was lost or stolen or became inoperative while participating in such a match or contest, or while engaged in hunting, in such other State, and (ii) identifying the chief law enforcement officer of the locality in which such person resides, to whom such licensed dealer shall forward such statement by registered mail;



Post, p. 1231.

Recordkeeping.

"(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity; and

"(5) any firearm or ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Secretary.

"(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if—

"(1) the transferee submits to the transferor a sworn statement in the following form:

"Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are -----

Ante, p. 1214.

Signature ----- Date -----

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

"(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Secretary, to the chief law enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

"(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

Recordkeeping. A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

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"(d) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

"(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(2) is a fugitive from justice;

"(3) is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

"(4) has been adjudicated as a mental defective or has been committed to any mental institution.

79 Stat. 227.

21 USC 321.

74 Stat. 57.

26 USC 4731.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

"(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter.

"(f) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

"(g) It shall be unlawful for any person—

"(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(2) who is a fugitive from justice;

"(3) who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

"(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

to ship or transport any firearm or ammunition in interstate or foreign commerce.

"(h) It shall be unlawful for any person—

"(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(2) who is a fugitive from justice;

82 STAT. 1221

79 Stat. 227.

21 USC 321.

74 Stat. 57.

26 USC 4731.

"(3) who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954);

or

"(4) who has been adjudicated as a mental defective or who has been committed to any mental institution;

to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

"(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

"(j) It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, or which constitutes, interstate or foreign commerce, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

"(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered.

"(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

Record-keeping.

"(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

### "§ 923. Licensing

"(a) No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from, the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulation prescribe. Each applicant shall pay a fee for obtaining such a license, a separate fee being required for each place in which the applicant is to do business, as follows:

Fees.

"(1) If the applicant is a manufacturer—

"(A) of destructive devices or ammunition for destructive devices, a fee of \$1,000 per year;

"(B) of firearms other than destructive devices, a fee of \$50 per year; or

"(C) of ammunition for firearms other than destructive devices, a fee of \$10 per year.

"(2) If the applicant is an importer—

"(A) of destructive devices or ammunition for destructive devices, a fee of \$1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, a fee of \$50 per year.

"(3) If the applicant is a dealer—

"(A) in destructive devices or ammunition for destructive devices, a fee of \$1,000 per year;



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62 STAT. 1222

"(B) who is a pawnbroker dealing in firearms other than destructive devices or ammunition for firearms other than destructive devices, a fee of \$25 per year; or

"(C) who is not a dealer in destructive devices or a pawnbroker, a fee of \$10 per year.

"(b) Any person desiring to be licensed as a collector shall file an application for such license with the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulation prescribe. The fee for such license shall be \$10 per year. Any license granted under this subsection shall only apply to transactions in curios and relics.

"(c) Upon the filing of a proper application and payment of the prescribed fee, the Secretary shall issue to a qualified applicant the appropriate license which, subject to the provisions of this chapter and other applicable provisions of law, shall entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license.

"(d) (1) Any application submitted under subsection (a) or (b) of Approval. this section shall be approved if—

"(A) the applicant is twenty-one years of age or over;

"(B) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 922 (g) and (h) of this chapter;

"(C) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

"(D) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application; and

"(E) the applicant has in a State (i) premises from which he conducts business subject to license under this chapter or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under this chapter or from which he intends to conduct such collecting within a reasonable period of time.

"(2) The Secretary must approve or deny an application for a license within the forty-five-day period beginning on the date it is received. If the Secretary fails to act within such period, the applicant may file an action under section 1361 of title 28 to compel the Secretary to act. If the Secretary approves an applicant's application, such applicant shall be issued a license upon the payment of the prescribed fee.

76 Stat. 744.

"(e) The Secretary may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter. The Secretary's action under this subsection may be reviewed only as provided in subsection (f) of this section.

Revocation.

"(f) (1) Any person whose application for a license is denied and any holder of a license which is revoked shall receive a written notice from the Secretary stating specifically the grounds upon which the application was denied or upon which the license was revoked. Any notice of a revocation of a license shall be given to the holder of such license before the effective date of the revocation.

Hearing.

Judicial  
review.

"(2) If the Secretary denies an application for, or revokes, a license, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation of a license, the Secretary shall upon the request of the holder of the license stay the effective date of the revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

"(3) If after a hearing held under paragraph (2) the Secretary decides not to reverse his decision to deny an application or revoke a license, the Secretary shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a judicial review of such denial or revocation. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding. If the court decides that the Secretary was not authorized to deny the application or to revoke the license, the court shall order the Secretary to take such action as may be necessary to comply with the judgment of the court.

Recordkeeping.

"(g) Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms and ammunition at such place, for such period, and in such form as the Secretary may by regulations prescribe. Such importers, manufacturers, dealers, and collectors shall make such records available for inspection at all reasonable times, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary may enter during business hours the premises (including places of storage) of any firearms or ammunition importer, manufacturer, dealer, or collector for the purpose of inspecting or examining (1) any records or documents required to be kept by such importer, manufacturer, dealer, or collector under the provisions of this chapter or regulations issued under this chapter, and (2) any firearms or ammunition kept or stored by such importer, manufacturer, dealer, or collector at such premises. Upon the request of any State or any political subdivision thereof, the Secretary may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition.

Posting of  
license.

"(h) Licenses issued under the provisions of subsection (c) of this section shall be kept posted and kept available for inspection on the premises covered by the license.

"(i) Licensed importers and licensed manufacturers shall identify, by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Secretary shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer.

Exemption.

"(j) This section shall not apply to anyone who engages only in hand loading, reloading, or custom loading ammunition for his own firearm, and who does not hand load, reload, or custom load ammunition for others.

#### "§ 924. Penalties

"(a) Whoever violates any provision of this chapter or knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or in applying for any

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license or exemption or relief from disability under the provisions of this chapter, shall be fined not more than \$5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine.

"(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.

"(c) Whoever—

"(1) uses a firearm to commit any felony which may be prosecuted in a court of the United States, or

"(2) carries a firearm unlawfully during the commission of any felony which may be prosecuted in a court of the United States,

shall be sentenced to a term of imprisonment for not less than one year nor more than 10 years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than five years nor more than 25 years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of such person or give him a probationary sentence.

"(d) Any firearm or ammunition involved in or used or intended to be used in, any violation of the provisions of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, Post, p.1230. extend to seizures and forfeitures under the provisions of this chapter.

#### "§ 925. Exceptions: Relief from disabilities

"(a) (1) The provisions of this chapter shall not apply with respect to the transportation, shipment, receipt, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

"(2) The provisions of this chapter shall not apply with respect to (A) the shipment or receipt of firearms or ammunition when sold or issued by the Secretary of the Army pursuant to section 4308 of title 10, and (B) the transportation of any such firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions.

"(3) Unless otherwise prohibited by this chapter or any other Federal law, a licensed importer, licensed manufacturer, or licensed dealer may ship to a member of the United States Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members, and such members or clubs may receive a firearm or ammunition determined by the Secretary of the Treasury to be generally recognized as particularly suitable for sporting purposes and intended for the personal use of such member or club.

"(4) When established to the satisfaction of the Secretary to be consistent with the provisions of this chapter and other applicable Federal and State laws and published ordinances, the Secretary may

70A Stat. 236.



authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the sixty day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is (A) determined by the Secretary to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and (B) intended for the personal use of such member.

"(5) For the purpose of paragraphs (3) and (4) of this subsection, the term 'United States' means each of the several States and the District of Columbia.

"(b) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector who is indicted for a crime punishable by imprisonment for a term exceeding one year, may, notwithstanding any other provision of this chapter, continue operation pursuant to his existing license (if prior to the expiration of the term of the existing license timely application is made for a new license) during the term of such indictment and until any conviction pursuant to the indictment becomes final.

"(c) A person who has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act) may make application to the Secretary for relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of such conviction, and the Secretary may grant such relief if it is established to his satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. A licensed importer, licensed manufacturer, licensed dealer, or licensed collector conducting operations under this chapter, who makes application for relief from the disabilities incurred under this chapter by reason of such a conviction, shall not be barred by such conviction from further operations under his license pending final action on an application for relief filed pursuant to this section. Whenever the Secretary grants relief to any person pursuant to this section he shall promptly publish in the Federal Register notice of such action, together with the reasons therefor.

"(d) The Secretary may authorize a firearm or ammunition to be imported or brought into the United States or any possession thereof if the person importing or bringing in the firearm or ammunition establishes to the satisfaction of the Secretary that the firearm or ammunition—

"(1) is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 401 of title 10;

"(2) is an unserviceable firearm, other than a machinegun as defined in section 5845(b) of the Internal Revenue Code of 1954 (not readily restorable to firing condition), imported or brought in as a curio or museum piece;

"(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms; or

"United States."

Post, p. 1227.

Publication  
in Federal  
Register.

70A Stat. 234.

10 USC 4301-

4313.

Post, p. 1231.

"(4) was previously taken out of the United States or a possession by the person who is bringing in the firearm or ammunition. The Secretary may permit the conditional importation or bringing in of a firearm or ammunition for examination and testing in connection with the making of a determination as to whether the importation or bringing in of such firearm or ammunition will be allowed under this subsection.

#### **"§ 926. Rules and regulations**

"The Secretary may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter, including—

"(1) regulations providing that a person licensed under this chapter, when dealing with another person so licensed, shall provide such other licensed person a certified copy of this license; and

"(2) regulations providing for the issuance, at a reasonable cost, to a person licensed under this chapter, of certified copies of his license for use as provided under regulations issued under paragraph (1) of this subsection.

The Secretary shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing such rules and regulations.

#### **"§ 927. Effect on State law**

"No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.

#### **"§ 928. Separability**

"If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby."

Sec. 103. The administration and enforcement of the amendment made by this title shall be vested in the Secretary of the Treasury.

Sec. 104. Nothing in this title or the amendment made thereby shall be construed as modifying or affecting any provision of—

(a) the National Firearms Act (chapter 53 of the Internal Revenue Code of 1954);

(b) section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), as amended, relating to munitions control; or

(c) section 1715 of title 18, United States Code, relating to non-mailable firearms.

Sec. 105. (a) Except as provided in subsection (b), the provisions of chapter 44 of title 18, United States Code, as amended by section 102 of this title, shall take effect on December 16, 1968.

(b) The following sections of chapter 44 of title 18, United States Code, as amended by section 102 of this title shall take effect on the date of the enactment of this title: Sections 921, 922(1), 925(a)(1), and 925(d).

Post, p. 1227.

68 Stat. 848.

62 Stat. 781;

63 Stat. 95.

Effective  
dates.

TITLE II—MACHINE GUNS, DESTRUCTIVE DEVICES,  
AND CERTAIN OTHER FIREARMS

National Fire-  
arms Act Amend-  
ments of 1968.  
69A Stat. 721.  
72 Stat. 1428.  
26 USC 5801-  
5862.

SEC. 201. Chapter 53 of the Internal Revenue Code of 1954 is amended to read as follows:

“CHAPTER 53—MACHINE GUNS, DESTRUCTIVE  
DEVICES, AND CERTAIN OTHER FIREARMS

“Subchapter A. Taxes.

“Subchapter B. General provisions and exemptions.

“Subchapter C. Prohibited acts.

“Subchapter D. Penalties and forfeitures.

## “Subchapter A—Taxes

“Part I. Special (occupational) taxes.

“Part II. Tax on transferring firearms.

“Part III. Tax on making firearms.

## “PART I—SPECIAL (OCCUPATIONAL) TAXES

“Sec. 5801. Tax.

“Sec. 5802. Registration of importers, manufacturers, and dealers.

## “SEC. 5801. TAX.

“On first engaging in business and thereafter on or before the first day of July of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

“(1) IMPORTERS.—\$500 a year or fraction thereof;

“(2) MANUFACTURERS.—\$500 a year or fraction thereof;

“(3) DEALERS.—\$200 a year or fraction thereof.

Except an importer, manufacturer, or dealer who imports, manufactures, or deals in only weapons classified as ‘any other weapon’ under section 5845 (e), shall pay a special (occupational) tax for each place of business at the following rates: Importers, \$25 a year or fraction thereof; manufacturers, \$25 a year or fraction thereof; dealers, \$10 a year or fraction thereof.

## “SEC. 5802. REGISTRATION OF IMPORTERS, MANUFACTURERS, AND DEALERS.

“On first engaging in business and thereafter on or before the first day of July of each year, each importer, manufacturer, and dealer in firearms shall register with the Secretary or his delegate in each internal revenue district in which such business is to be carried on, his name, including any trade name, and the address of each location in the district where he will conduct such business. Where there is a change during the taxable year in the location of, or the trade name used in, such business, the importer, manufacturer, or dealer shall file an application with the Secretary or his delegate to amend his registration. Firearms operations of an importer, manufacturer, or dealer may not be commenced at the new location or under a new trade name prior to approval by the Secretary or his delegate of the application.



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**"PART II—TAX ON TRANSFERRING FIREARMS****"Sec. 5811. Transfer tax.****"Sec. 5812. Transfers.****"SEC. 5811. TRANSFER TAX.**

"(a) **RATE.**—There shall be levied, collected, and paid on firearms transferred a tax at the rate of \$200 for each firearm transferred, except, the transfer tax on any firearm classified as any other weapon under section 5845(e) shall be at the rate of \$5 for each such firearm transferred.

"(b) **BY WHOM PAID.**—The tax imposed by subsection (a) of this section shall be paid by the transferor.

"(c) **PAYMENT.**—The tax imposed by subsection (a) of this section shall be payable by the appropriate stamps prescribed for payment by the Secretary or his delegate.

**"SEC. 5812. TRANSFERS.**

"(a) **APPLICATION.**—A firearm shall not be transferred unless (1) the transferor of the firearm has filed with the Secretary or his delegate a written application, in duplicate, for the transfer and registration of the firearm to the transferee on the application form prescribed by the Secretary or his delegate; (2) any tax payable on the transfer is paid as evidenced by the proper stamp affixed to the original application form; (3) the transferee is identified in the application form in such manner as the Secretary or his delegate may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; (4) the transferor of the firearm is identified in the application form in such manner as the Secretary or his delegate may by regulations prescribe; (5) the firearm is identified in the application form in such manner as the Secretary or his delegate may by regulations prescribe; and (6) the application form shows that the Secretary or his delegate has approved the transfer and the registration of the firearm to the transferee. Applications shall be denied if the transfer, receipt, or possession of the firearm would place the transferee in violation of law.

"(b) **TRANSFER OF POSSESSION.**—The transferee of a firearm shall not take possession of the firearm unless the Secretary or his delegate has approved the transfer and registration of the firearm to the transferee as required by subsection (a) of this section.

**"PART III—TAX ON MAKING FIREARMS****"Sec. 5821. Making tax.****"Sec. 5822. Making.****"SEC. 5821. MAKING TAX.**

"(a) **RATE.**—There shall be levied, collected, and paid upon the making of a firearm a tax at the rate of \$200 for each firearm made.

"(b) **BY WHOM PAID.**—The tax imposed by subsection (a) of this section shall be paid by the person making the firearm.

"(c) **PAYMENT.**—The tax imposed by subsection (a) of this section shall be payable by the stamp prescribed for payment by the Secretary or his delegate.

**"SEC. 5822. MAKING.**

"No person shall make a firearm unless he has (a) filed with the Secretary or his delegate a written application, in duplicate, to make and register the firearm on the form prescribed by the Secretary or his delegate; (b) paid any tax payable on the making and such payment is evidenced by the proper stamp affixed to the original application form; (c) identified the firearm to be made in the application form

in such manner as the Secretary or his delegate may by regulations prescribe; (d) identified himself in the application form in such manner as the Secretary or his delegate may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; and (e) obtained the approval of the Secretary or his delegate to make and register the firearm and the application form shows such approval. Applications shall be denied if the making or possession of the firearm would place the person making the firearm in violation of law.

## **"Subchapter B—General Provisions and Exemptions**

"Part I. General provisions.

"Part II. Exemptions.

### **"PART I—GENERAL PROVISIONS**

"Sec. 5841. Registration of firearms.

"Sec. 5842. Identification of firearms.

"Sec. 5843. Records and returns.

"Sec. 5844. Importation.

"Sec. 5845. Definitions.

"Sec. 5846. Other laws applicable.

"Sec. 5847. Effect on other law.

"Sec. 5848. Restrictive use of information.

"Sec. 5849. Citation of chapter.

#### **"SEC. 5841. REGISTRATION OF FIREARMS.**

"(a) **CENTRAL REGISTRY.** The Secretary or his delegate shall maintain a central registry of all firearms in the United States which are not in the possession or under the control of the United States. This registry shall be known as the National Firearms Registration and Transfer Record. The registry shall include—

"(1) identification of the firearm;

"(2) date of registration; and

"(3) identification and address of person entitled to possession of the firearm.

"(b) **BY WHOM REGISTERED.**—Each manufacturer, importer, and maker shall register each firearm he manufactures, imports, or makes. Each firearm transferred shall be registered to the transferee by the transferor.

"(c) **HOW REGISTERED.**—Each manufacturer shall notify the Secretary or his delegate of the manufacture of a firearm in such manner as may by regulations be prescribed and such notification shall effect the registration of the firearm required by this section. Each importer, maker, and transferor of a firearm shall, prior to importing, making, or transferring a firearm, obtain authorization in such manner as required by this chapter or regulations issued thereunder to import, make, or transfer the firearm, and such authorization shall effect the registration of the firearm required by this section.

"(d) **FIREARMS REGISTERED ON EFFECTIVE DATE OF THIS ACT.**—A person shown as possessing a firearm by the records maintained by the Secretary or his delegate pursuant to the National Firearms Act in force on the day immediately prior to the effective date of the National Firearms Act of 1968 shall be considered to have registered under this section the firearms in his possession which are disclosed by that record as being in his possession.

"(e) **PROOF OF REGISTRATION.**—A person possessing a firearm registered as required by this section shall retain proof of registration which shall be made available to the Secretary or his delegate upon request.

National Fire-  
arms Registra-  
tion and Trans-  
fer Record.

68A Stat. 721;  
72 Stat. 1428.  
26 USC 5801-  
5862.  
Post, p. 1235.

October 22, 1968

- 17 -

Pub. Law 90-618

82 STAT. 1230

**"SEC. 5842. IDENTIFICATION OF FIREARMS.**

"(a) **IDENTIFICATION OF FIREARMS OTHER THAN DESTRUCTIVE DEVICES.**—Each manufacturer and importer and anyone making a firearm shall identify each firearm, other than a destructive device, manufactured, imported, or made by a serial number which may not be readily removed, obliterated, or altered, the name of the manufacturer, importer, or maker, and such other identification as the Secretary or his delegate may by regulations prescribe.

"(b) **FIREARMS WITHOUT SERIAL NUMBER.**—Any person who possesses a firearm, other than a destructive device, which does not bear the serial number and other information required by subsection (a) of this section shall identify the firearm with a serial number assigned by the Secretary or his delegate and any other information the Secretary or his delegate may by regulations prescribe.

"(c) **IDENTIFICATION OF DESTRUCTIVE DEVICE.**—Any firearm classified as a destructive device shall be identified in such manner as the Secretary or his delegate may by regulations prescribe.

**"SEC. 5843. RECORDS AND RETURNS.**

"Importers, manufacturers, and dealers shall keep such records of, and render such returns in relation to, the importation, manufacture, making, receipt, and sale, or other disposition, of firearms as the Secretary or his delegate may by regulations prescribe.

**"SEC. 5844. IMPORTATION.**

"No firearm shall be imported or brought into the United States or any territory under its control or jurisdiction unless the importer establishes, under regulations as may be prescribed by the Secretary or his delegate, that the firearm to be imported or brought in is—

"(1) being imported or brought in for the use of the United States or any department, independent establishment, or agency thereof or any State or possession or any political subdivision thereof; or

"(2) being imported or brought in for scientific or research purposes; or

"(3) being imported or brought in solely for testing or use as a model by a registered manufacturer or solely for use as a sample by a registered importer or registered dealer;

except that, the Secretary or his delegate may permit the conditional importation or bringing in of a firearm for examination and testing in connection with classifying the firearm.

**"SEC. 5845. DEFINITIONS.**

"For the purpose of this chapter—

"(a) **FIREARM.**—The term 'firearm' means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) a muffler or a silencer for any firearm whether or not such firearm is included within this definition; and (8) a destructive device. The term 'firearm' shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary or his delegate finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.



"(b) **MACHINEGUN.**—The term 'machinegun' means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination of parts designed and intended for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

"(c) **RIFLE.**—The term 'rifle' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

"(d) **SHOTGUN.**—The term 'shotgun' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

"(e) **ANY OTHER WEAPON.**—The term 'any other weapon' means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

"(f) **DESTRUCTIVE DEVICE.**—The term 'destructive device' means (1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary or his delegate finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term 'destructive device' shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; or any other device which the Secretary of the Treasury or his delegate finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

"(g) **ANTIQUE FIREARM.**—The term 'antique firearm' means any firearm not designed or redesigned for using rim fire or conventional

center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

“(h) **UNSERVICEABLE FIREARM.**—The term ‘unserviceable firearm’ means a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

“(i) **MAKE.**—The term ‘make’, and the various derivatives of such word, shall include manufacturing (other than by one qualified to engage in such business under this chapter), putting together, altering, any combination of these, or otherwise producing a firearm.

“(j) **TRANSFER.**—The term ‘transfer’ and the various derivatives of such word, shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

“(k) **DEALER.**—The term ‘dealer’ means any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

“(l) **IMPORTER.**—The term ‘importer’ means any person who is engaged in the business of importing or bringing firearms into the United States.

“(m) **MANUFACTURER.**—The term ‘manufacturer’ means any person who is engaged in the business of manufacturing firearms.

#### “SEC. 5846. OTHER LAWS APPLICABLE.

“All provisions of law relating to special taxes imposed by chapter 51 and to engraving, issuance, sale, accountability, cancellation, and distribution of stamps for tax payment shall, insofar as not inconsistent with the provisions of this chapter, be applicable with respect to the taxes imposed by sections 5801, 5811, and 5821.

72 Stat. 1313.  
26 USC 5001-  
5692.  
Post, p. 1235.

#### “SEC. 5847. EFFECT ON OTHER LAWS.

“Nothing in this chapter shall be construed as modifying or affecting the requirements of section 414 of the Mutual Security Act of 1954, as amended, with respect to the manufacture, exportation, and importation of arms, ammunition, and implements of war.

68 Stat. 848.  
22 USC 1934.

#### “SEC. 5848. RESTRICTIVE USE OF INFORMATION.

“(a) **GENERAL RULE.**—No information or evidence obtained from an application, registration, or records required to be submitted or retained by a natural person in order to comply with any provision of this chapter or regulations issued thereunder, shall, except as provided in subsection (b) of this section, be used, directly or indirectly, as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application or registration, or the compiling of the records containing the information or evidence.

“(b) **FURNISHING FALSE INFORMATION.**—Subsection (a) of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

#### “SEC. 5849. CITATION OF CHAPTER.

“This chapter may be cited as the ‘National Firearms Act’ and any reference in any other provision of law to the ‘National Firearms Act’ shall be held to refer to the provisions of this chapter.

**"PART II—EXEMPTIONS**

"Sec. 5851. Special (occupational) tax exemption.

"Sec. 5852. General transfer and making exemption.

"Sec. 5853. Exemption from transfer and making tax available to certain governmental entities and officials.

"Sec. 5854. Exportation of firearms exempt from transfer tax.

**"SEC. 5851. SPECIAL (OCCUPATIONAL) TAX EXEMPTION.**

"(a) **BUSINESS WITH UNITED STATES.**—Any person required to pay special (occupational) tax under section 5801 shall be relieved from payment of that tax if he establishes to the satisfaction of the Secretary or his delegate that his business is conducted exclusively with, or on behalf of, the United States or any department, independent establishment, or agency thereof. The Secretary or his delegate may relieve any person manufacturing firearms for, or on behalf of, the United States from compliance with any provision of this chapter in the conduct of such business.

"(b) **APPLICATION.**—The exemption provided for in subsection (a) of this section may be obtained by filing with the Secretary or his delegate an application on such form and containing such information as may be required by regulations be prescribed. The exemptions must thereafter be renewed on or before July 1 of each year. Approval of the application by the Secretary or his delegate shall entitle the applicant to the exemptions stated on the approved application.

**"SEC. 5852. GENERAL TRANSFER AND MAKING TAX EXEMPTION.**

"(a) **TRANSFER.**—Any firearm may be transferred to the United States or any department, independent establishment, or agency thereof, without payment of the transfer tax imposed by section 5811.

"(b) **MAKING BY A PERSON OTHER THAN A QUALIFIED MANUFACTURER.**—Any firearm may be made by, or on behalf of, the United States, or any department, independent establishment, or agency thereof, without payment of the making tax imposed by section 5821.

"(c) **MAKING BY A QUALIFIED MANUFACTURER.**—A manufacturer qualified under this chapter to engage in such business may make the type of firearm which he is qualified to manufacture without payment of the making tax imposed by section 5821.

"(d) **TRANSFERS BETWEEN SPECIAL (OCCUPATIONAL) TAXPAYERS.**—A firearm registered to a person qualified under this chapter to engage in business as an importer, manufacturer, or dealer may be transferred by that person without payment of the transfer tax imposed by section 5811 to any other person qualified under this chapter to manufacture, import, or deal in that type of firearm.

"(e) **UNSERVICEABLE FIREARM.**—An unserviceable firearm may be transferred as a curio or ornament without payment of the transfer tax imposed by section 5811, under such requirements as the Secretary or his delegate may by regulations prescribe.

"(f) **RIGHT TO EXEMPTION.**—No firearm may be transferred or made exempt from tax under the provisions of this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary or his delegate may by regulations prescribe.

**"SEC. 5853. TRANSFER AND MAKING TAX EXEMPTION AVAILABLE TO CERTAIN GOVERNMENTAL ENTITIES.**

"(a) **TRANSFER.**—A firearm may be transferred without the payment of the transfer tax imposed by section 5811 to any State, possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

"(b) **MAKING.**—A firearm may be made without payment of the making tax imposed by section 5821 by, or on behalf of, any State, or



possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

“(c) **RIGHT TO EXEMPTION.**—No firearm may be transferred or made exempt from tax under this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary or his delegate may by regulations prescribe.

**“SEC. 5854. EXPORTATION OF FIREARMS EXEMPT FROM TRANSFER TAX.**

“A firearm may be exported without payment of the transfer tax imposed under section 5811 provided that proof of the exportation is furnished in such form and manner as the Secretary or his delegate may by regulations prescribe.

### “Subchapter C—Prohibited Acts

**“SEC. 5861. PROHIBITED ACTS.**

“It shall be unlawful for any person—

“(a) to engage in business as a manufacturer or importer of, or dealer in, firearms without having paid the special (occupational) tax required by section 5801 for his business or having registered as required by section 5802; or

“(b) to receive or possess a firearm transferred to him in violation of the provisions of this chapter; or

“(c) to receive or possess a firearm made in violation of the provisions of this chapter; or

“(d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record; *Ante*, p.1229.

or

“(e) to transfer a firearm in violation of the provisions of this chapter; or

“(f) to make a firearm in violation of the provisions of this chapter; or

“(g) to obliterate, remove, change, or alter the serial number or other identification of a firearm required by this chapter; or

“(h) to receive or possess a firearm having the serial number or other identification required by this chapter obliterated, removed, changed, or altered; or

“(i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or

“(j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter; or

“(k) to receive or possess a firearm which has been imported or brought into the United States in violation of section 5844; or

“(l) to make, or cause the making of, a false entry on any application, return, or record required by this chapter, knowing such entry to be false.

### “Subchapter D—Penalties and Forfeitures

“Sec. 5871. Penalties.

“Sec. 5872. Forfeitures.

**“SEC. 5871. PENALTIES.**

“Any person who violates or fails to comply with any provision of this chapter shall, upon conviction, be fined not more than \$10,000, or be imprisoned not more than ten years, or both, and shall become eligible for parole as the Board of Parole shall determine.

**"SEC. 5872. FORFEITURES.**

"(a) **LAWS APPLICABLE.**—Any firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and (except as provided in subsection (b)) all the provisions of internal revenue laws relating to searches, seizures, and forfeitures of unstamped articles are extended to and made to apply to the articles taxed under this chapter, and the persons to whom this chapter applies.

"(b) **DISPOSAL.**—In the case of the forfeiture of any firearm by reason of a violation of this chapter, no notice of public sale shall be required; no such firearm shall be sold at public sale; if such firearm is forfeited for a violation of this chapter and there is no remission or mitigation of forfeiture thereof, it shall be delivered by the Secretary or his delegate to the Administrator of General Services, General Services Administration, who may order such firearm destroyed or may sell it to any State, or possession, or political subdivision thereof, or at the request of the Secretary or his delegate, may authorize its retention for official use of the Treasury Department, or may transfer it without charge to any executive department or independent establishment of the Government for use by it."

SEC. 202. The amendments made by section 201 of this title shall be cited as the "National Firearms Act Amendments of 1968".

SEC. 203. (a) Section 6107 of the Internal Revenue Code of 1954 is repealed.

(b) The table of sections for subchapter B of chapter 61 of the Internal Revenue Code of 1954 is amended by striking out:

"Sec. 6107. List of special taxpayers for public inspection."

SEC. 204. Section 6806 of the Internal Revenue Code of 1954 is amended to read as follows:

**"SEC. 6806. OCCUPATIONAL TAX STAMPS.**

"Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax (other than a special tax under subchapter B of chapter 35, under subchapter B of chapter 36, or under subtitle E) shall place and keep conspicuously in his establishment or place of business all stamps denoting payment of such special tax."

SEC. 205. Section 7273 of the Internal Revenue Code of 1954 is amended to read as follows:

**"SEC. 7273. PENALTIES FOR OFFENSES RELATING TO SPECIAL TAXES.**

"Any person who shall fail to place and keep stamps denoting the payment of the special tax as provided in section 6806 shall be liable to a penalty (not less than \$10) equal to the special tax for which his business rendered him liable, unless such failure is shown to be due to reasonable cause. If such failure to comply with section 6806 is through willful neglect or refusal, then the penalty shall be double the amount above prescribed."

SEC. 206. (a) Section 5692 of the Internal Revenue Code of 1954 is repealed.

(b) The table of sections for part V of subchapter J of chapter 51 of the Internal Revenue Code of 1954 is amended by striking out:

"Sec. 5692. Penalties relating to posting of special tax stamps."

SEC. 207. (a) Section 201 of this title shall take effect on the first day of the first month following the month in which it is enacted.

(b) Notwithstanding the provisions of subsection (a) or any other provision of law, any person possessing a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 (as amended by this title) which is not registered to him in the National Firearms Registra-

Citation of  
amendments.

Repeal.

68A Stat. 756.

26 USC 6107.

26 USC 4411-  
4414, 4461-  
4463, 5001-  
5862.

Repeal.

72 Stat. 1413.

Effective dates.

Ante, p. 1230.

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82 STAT. 1236

tion and Transfer Record shall register each firearm so possessed with the Secretary of the Treasury or his delegate in such form and manner as the Secretary or his delegate may require within the thirty days immediately following the effective date of section 201 of this Act. Such registrations shall become a part of the National Firearms Registration and Transfer Record required to be maintained by section 5841 of the Internal Revenue Code of 1954 (as amended by this title). No information or evidence required to be submitted or retained by a natural person to register a firearm under this section shall be used, directly or indirectly, as evidence against such person in any criminal proceeding with respect to a prior or concurrent violation of law.

Ante, p. 1229.

(c) The amendments made by sections 202 through 206 of this title shall take effect on the date of enactment.

(d) The Secretary of the Treasury, after publication in the Federal Register of his intention to do so, is authorized to establish such periods of amnesty, not to exceed ninety days in the case of any single period, and immunity from liability during any such period, as the Secretary determines will contribute to the purposes of this title.

Publication  
in Federal  
Register.

### TITLE III—AMENDMENTS TO TITLE VII OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

SEC. 301. (a) Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90-351) is amended—

Ante, p. 236.

(1) by striking out "other than honorably discharged" in section 1201, and substituting therefor "discharged under dishonorable conditions"; and

(2) by striking out "other than honorable conditions" in subsections (a) (2) and (b) (2) of section 1202 and substituting therefor in each instance "dishonorable conditions".

(b) Section 1202(c) (2) of such title is amended to read as follows:

"(2) 'felony' means any offense punishable by imprisonment for a term exceeding one year, but does not include any offense (other than one involving a firearm or explosive) classified as a misdemeanor under the laws of a State and punishable by a term of imprisonment of two years or less;"

"Felony."

SEC. 302. The amendments made by paragraphs (1) and (2) of subsection (a) of section 301 shall take effect as of June 19, 1968.

Effective  
date.

Approved October 22, 1968.

#### LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 1577 (Comm. on the Judiciary) and No. 1956 (Comm. of Conference).

SENATE REPORT No. 1501 accompanying S. 3633 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 114 (1968):

July 17, 19, 23-25: Considered and passed House.

Sept. 11-13, 16-18: Considered and passed Senate, amended, in lieu of S. 3633.

Sept. 25: Considered in House.

Oct. 9: Senate agreed to conference report.

Oct. 10: House agreed to conference report.





## HANDGUN CRIME CONTROL—1975–1976

### Oversight of 1968 Gun Control Act—The Escalating Rate of Handgun Violence

WEDNESDAY, APRIL 23, 1975

U.S. SENATE,  
SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY,  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee (composed of Senators Bayh, Hart, Burdick, Kennedy, Tunney, Hruska, Fong, and Mathias) met, pursuant to notice, at 10:05 a.m., in room 2228, Dirksen Senate Office Building, Senator Birch Bayh (chairman of the subcommittee), presiding.

Present: Senators Bayh, Kennedy, and Hruska.

Also present: John M. Rector, staff director and chief counsel; Mary Kaaren Jolly, editorial director and chief clerk; and Kevin O. Faley, assistant counsel.

Senator BAYH. We will convene our hearing this morning.

The subcommittee's enabling resolution, S. Res. 72, section 12, 94th Congress is hereby noted for the record. Also the legislation concerned with these hearings will be reprinted for this record.<sup>1</sup>

I would like to commence our hearings with a brief statement setting out our objectives.

#### OPENING STATEMENT OF SENATOR BIRCH BAYH, CHAIRMAN

Senator BAYH. This morning we begin a series of hearings to explore current and suggested additional initiatives to more effectively curb the senseless slaughter of innocent human beings and the alarming and ever-escalating number of armed assaults and robberies involving firearms, but especially nonsporting and easily concealable handguns.

We intend to conduct a thorough and careful review of the Gun Control Act of 1968 which was written and developed by this subcommittee. We want to learn what can be done to stem diversion by theft of firearms from legitimate channels of commerce, from licensed manufacturers, wholesalers, and dealers. The sad fact is, no one really knows how many firearms are stolen or lost in transit. In fact, there is no requirement that thefts or losses of firearms be reported to the authorities. Conservative estimates, however, set the number of stolen weapons at 100,000 annually, and the total lost in interstate transit at 10,000 per year.

<sup>1</sup> See Appendix, Vol. 1, p. 843 et seq.

Law enforcement authorities have informed our subcommittee that diverted guns are especially sought after by criminals who pay more for these nontraceable weapons than for new weapons purchased over the counter. They report that numerous burglary and fencing rings specializing in guns have been formed to exploit this new highly profitable, illicit market. In some instances, there is evidence of stolen weapons which have been smuggled into Mexico and other countries for purposes of trading for heroin.

So it is a very complicated, intertwined problem.

#### ILLICIT INTERSTATE TRAFFIC IN FIREARMS

I am likewise concerned about the growing pattern of illicit interstate traffic in firearms or gun-running in violation of Federal law. Recent Treasury Department studies have clearly demonstrated the serious impact that such criminal activity has had in major—particularly northern—cities.

The Bureau of Alcohol, Tobacco, and Firearms conducted a study to determine, among other things, the source of handguns used in street crimes. The agents found that of 2,546 traceable weapons seized in New York City, 77 percent were traced outside of the State of New York. In fact, one Southern State supplied five times as many of the handguns seized in New York City as did the State of New York itself. In Detroit, 92 percent of the traceable handguns were from sources outside of the State of Michigan. Of course, the interstate traffic in handguns between unlicensed persons is illegal under existing Federal law. The question is how can we change the law or, in other ways, find a manner to enforce the law which now is failing.

#### MULTIPLE HANDGUN PURCHASERS

I am also concerned about multiple purchases of handguns. I was recently informed about a case in which an individual purchased legally 136 handguns in 7 months, and then proceeded to sell them out of the trunk of his car in a major urban area.

Likewise, I believe it important that we assure that prohibited classes of persons, including convicted felons, fugitives, drug addicts, and mental defectives, are not permitted to purchase handguns. For example, we would be interested to learn whether the dealer who sold the 20 weapons seized at the Symbionese Liberation Army stronghold in Los Angeles last May, had complied with those sections of the Firearms Act.

The subcommittee is particularly interested to learn whether the "Significant Criminal Enforcement Program—Armed and Dangerous" designed by the ATF to use the 1968 Act against career criminals, has been successful in prosecuting contract killers, organized crime members, terrorists, and fences of stolen firearms and explosives.

I share the Attorney General's concern that violent crime, and the threat of violent crime, have reached grave proportions. I also am alarmed by the frightening picture of the rising tide of crime revealed by recently released FBI statistics which show that serious crime in the United States rose an unprecedented 17 percent last year—the highest annual increase since the FBI began collecting crime data 45 years ago.



The subcommittee is especially interested to learn more about Attorney General Levi's proposal to regulate handguns. I have been informed that discussions designed to perfect and refine the proposals are continuing at the highest levels of the administration. Mr. Levi has indicated, however, that he will present a specific proposal to the subcommittee in the near future. We are eager to have the Attorney General before us, when he can deal with the specifics of the proposals that he will offer the consideration to the Congress.

#### MANDATORY CIVIL AND CRIMINAL PENALTIES

In addition to the Attorney General's sweeping proposal to ban the possession, transfer, and sale of handguns in certain standard metropolitan statistical areas, I was particularly interested by the possible application of mandatory civil and criminal penalties suggested by Mr. Levi. On April 3, 1973, the Senate, by a vote of 81 to 12, passed an amendment that my distinguished colleague from Georgia, Senator Herman Talmadge, and I introduced to help make our streets safer. The measure imposed, in addition to the penalties already provided by law, a minimum sentence of 5-to-15 years for those who use firearms to commit felonies or who unlawfully carry firearms while committing a felony which threatens life or property. For a second offense, an additional 10-to-30 year sentence was required. Unfortunately, this measure was not considered by the House of Representatives during the last Congress.

I notice that the State of Massachusetts has a similar if not stricter version of the Bayh-Talmadge amendment.

One of the things we hope to be able to consider with law enforcement officials is the extent to which we have to, by example, show that the illegal carrying and use of firearms to commit illegal purposes is a critical, serious crime. We should, by our actions, show that society treats seriously someone who carries a firearm or uses that weapon in the commission of a felony. The subcommittee has learned in previous hearings of the number of people who are apprehended illegally carrying firearms, even committing felonies with them, who in a short period of time are back on the street committing other felonies with a firearm. I think dealing with that type of offense in a forceful, unequivocal manner is at least one of the things we can do to deal with the crime problem that confronts us today.

#### ACT AGAINST ILLEGAL FIREARMS AND CRIMINALS

I think in one or two sentences we can summarize what I hope we will ultimately accomplish—namely, the ability to deal with the criminal and those who use firearms illegally; and to do so in such a way that it does not penalize or unnecessarily inconvenience the American citizen who has a lawful, useful purpose for firearms.

Now, history has shown that this is a very controversial issue. Despite that fact, it is our responsibility to deal with it, and I think if minds are open and if we keep our eye on the goal instead of having the kind of knee-jerk reaction that oftentimes accompanies even a discussion of these issues, I am confident we can make some progress, whether it will be the ultimate or not, I do not know.

But I think it would be folly and irresponsible for us not to try to do a better job in the future than we have in the past. Today we

are honored by having with us one who has long been a leader in the area of concern for the misuse of firearms, our distinguished colleague from Michigan, Senator Hart.

He is a member of our committee and has given a great deal of study and attention to this, and I am appreciative of the fact that as busy as he is, he will be with us this morning.

Senator Hart.

## STATEMENT OF HON. PHILIP A. HART, U.S. SENATOR FROM THE STATE OF MICHIGAN

Senator HART. Mr. Chairman, I am grateful that you, busy as you are, would undertake this series of hearings. At the risk of destroying my credibility, I do not have an open mind at all about the matter of handguns. I have a very closed mind, and I have a long statement, but the meat and potatoes of it is that I am safer if I do not have a handgun, my family is safer, and though it will be a long road, the sooner we make clear that the facts support the conclusions I just stated, the quicker we will get to the day that handguns, an instrument of violence that has no place in a society such as ours, is prohibited, save for police and security guards, and for those who are sportsmen in the use of handguns at a licensed target.

That is my closed-mind position, and I did not inherit it, and it did not come from osmosis. My first exposure to this came when I was assigned, along with Roman Hruska, to the—well, they called it the Eisenhower Commission, the National Commission on the Causes and Prevention of Violence. He was one of the four on this Commission, and there was no man that entered that study with a more open mind than Dr. Milton Eisenhower, and no member of that Commission left after many months more deeply devoted to the proposition that we have got to get rid of those damn things, and in retirement he still associates in this effort.

### HOME HANDGUN MORE THREAT THAN DEFENSE

But we will not get to that until we can convince ourselves that the statistics overwhelmingly say what I have just told you. The pistol in the bureau drawer is a threat to me and to my children and my neighbors and my friends and the casual passerby on the street to a far greater degree than it is a defense against the outlaw, and if that day comes—as the bumper sticker seeks to persuade us in opposition to these propositions—that when you outlaw guns, only the outlaws will have them, or whatever that sticker says, that is a good day because the honest man who is now shooting up himself, his wife, and his children at least will not be engaged in that practice, and that is where the bulk of these handgun killings come from.

And then when only the outlaw has it, it will be a darn sight easier to nail the outlaw for its possession. The outlaw will continue to get those handguns so long as the reservoir from which he draws them exists, and that is my bureau drawer's handgun. The outlaw does not go to Abercrombie for his weapon. He goes to my car glove compartment. He steals it, so disarms me, and you say you are protecting me, an honest person. By requiring the turn-in of all hand-

guns, you are making it increasingly more difficult for the outlaw to get his gun.

You bet I have a closed mind on that. Now, the bill that I have sponsored would limit handgun ownership primarily to law enforcement officers and security guards. It would permit the ownership of target pistols kept at licensed gun clubs and guns considered collectors' items. All other handguns would be bought by the Federal Government at fair market value and destroyed.

It would not affect in any way, shape, or form the long gun. The theory behind this approach to handgun control is really not complicated, and I guess I have already summarized it.

Roman, you just missed a rerun of the Commission on Violence debate on handguns. If I thought there was a chance of changing your mind any more than you have of changing mine, I would express regret that you just arrived.

Senator HRUSKA. Hope springs eternal, Senator, hope springs eternal, and I apologize for being tardy.

Senator BAYH. I said partially in jest and partially in seriousness—after our distinguished friend from Michigan said he had a closed mind on firearms, and then proceeded to discuss your joint involvement in the Crime Commission—I said I thought the state of your minds, both of you, was identical, both closed on firearms control.

Senator HART. I pleaded guilty to that.

Senator BAYH. I think both of you are still trying to struggle with this problem, and we can kid about it, but handgun crime is a very serious problem.

#### HANDGUN INTENDED PRIMARILY TO KILL PEOPLE

Senator HART. The theory goes this way. Rifles are used primarily for wholesome sporting activities, and are a little difficult to conceal. The handgun is intended primarily for killing people, and it is very easily concealed. Even if you extend the barrel to 6 inches or more, it is relatively easy to conceal, and it still can sit in the bureau drawer and kill me.

Second, handguns are used in an increasing number of killings in our country, the large majority of which result from anger at a friend or family member rather than in defense against an intruder, burglar, robber, or mugger.

And finally, study after study shows that the handgun is an ineffective defense against crime.

Since I first introduced this bill, which is now numbered S. 750, back in 1971, the number of privately owned handguns in this country was 25 million and has gone to, I think the generally accepted figure is 40 million. I have seen 50 million, and the only way to rid society of that massive number of handguns is to prohibit the ownership as well as the production and importation of handguns.

Since 1971 a substantial number of public officials, law enforcement officers, governmental units have, some slowly and almost reluctantly, come to the position that we just about ought to cut bait on this and outlaw the handgun from private use, and I would ask, Mr. Chairman, that there may be printed at the conclusion of my testimony the position of the Conference of Mayors, the mayor of



Chicago, the police commissioner of Detroit, a whole series have also taken this position.

I would also ask leave that three very recent newspaper articles be printed. I refer to them in my prepared statement.<sup>1</sup> I think they make an interesting current case for a total ban.

Senator BAYH. Without objection, they will be included in the hearing record as will your bill, S. 750.

Senator HART. The Sunday Chicago Tribune told us about that polite, sweet little man with a Ph. D. who shot four people to death, wounded three others, and then killed himself. That was just a couple of weeks ago.

Less than 2 weeks ago, we, here in the Metropolitan Washington area, read about the man who was roaming in Wheaton, Md.; there were two people killed and five wounded. In the Sunday Washington Post we had another story on the impact of handguns, only that story did not deal with death and violence. What it told is what I would wish for our country, a lack of violence because of the absence of handguns.

The largest city in the world is Tokyo. Whatever the difference culturally in the Japanese ability to adjust to constricted quarters and the constant friction that comes from metropolitan living, they cannot be vastly different from us. They live in the largest population concentration in the world. Handguns there are banned, period.

#### TOKYO VERSUS NEW YORK CITY STATISTICS

Now, here are the statistics of that handgunless city of about 11.6 million people, almost 4 million more than in New York City. Last year Tokyo had 189 murders; not one was committed with a handgun. In New York City, there were more than 1,500 murders of which more than 700 resulted from handguns.

I would suggest that if the Ph. D. or the man in Wheaton had wanted to embark on a killing spree in Tokyo where handguns are almost impossible to come by, far fewer people would be dead.

Now, if the statistics of Tokyo are accurate—and I have no reason to doubt them—we should scarcely need further proof of the benefits of a society without handguns. I hope all of us will think through the lesson that Tokyo presents.

Now, as I said, my conclusion to ban handguns is not a reaction to recent newspaper articles. It developed initially from the studies of the Eisenhower Commission on Violence, and briefly, why shouldn't the ban extend not only to the importation, manufacture, and sale, but also to the possession of handguns?

There are 40 million handguns, at least 40 million, at large in this country, and unless this vast reservoir of handguns is dried up, the easy accessibility of criminals to these guns through theft, burglary, secondhand commercial traffic, and so on, will continue. While reducing the potential accessibility of criminals to handguns is an important goal of restricting handgun possession, an essential secondary purpose, vital to this bill, would be to reduce the incidence of handgun deaths resulting from arguments between family members and acquaintances which constitute between 60 and 70 percent of all of

<sup>1</sup> See p. 8.

the handgun deaths. It is ironic that so many guns that are purchased allegedly to protect the home are ultimately used to end domestic arguments.

The Eisenhower Commission's majority view put it this way: "From the standpoint of the individual householder, the self-defense firearm appears to be a dangerous investment." In only 1 percent of home burglaries is the intruder shot by the householder.

#### PETERSON COMMISSION CONCLUSION

The conclusion it seems reasonable to draw from these and all the facts that you, Mr. Chairman, are so aware of, and the subcommittee will develop, is the one reached by the Peterson Commission.<sup>1</sup> This is a very recent report. Its conclusion is: "All the arguments against prohibiting the private possession of handguns become by comparison subordinate to the death, tragedy, and violence that abound in the absence of such legislation." I just buy that completely. I hope that a majority of the people of this country, more quickly than sometimes appears to be the case, would come to that conclusion. All of us would be the better off.

This bill does not go to long guns for reasons I indicated in my summary, and it is not advertised as the way to stop killings, not even killings by handguns; but the experience of Tokyo shows that you can reduce significantly the deaths that occur each year, and that alone would be a major accomplishment in reducing the grip of fear that clutches at too many hearts.

Violence has reached the point where the whole concept of the free society that we grew up with is beginning to lose shape.

Now, the Attorney General, whom I commend for thinking out loud on this thing, has discussed a method of approaching it. He would institute control and seek to reduce present levels of violence on the basis of levels of violence in regions. I am skeptical whether a ban on possession of handguns limited solely to urban areas effectively could deal with the problem.

You have dramatized, Mr. Chairman, as has the media, that a significant number of illegal guns seized by police in New York were purchased in South Carolina. Interestingly, the geography tells us why it is South Carolina. That happens to be the first State going south from New York which has a wide-open handgun sale.

The Bureau of Alcohol, Tobacco and Firearms unit of Treasury, in a recent investigation shows that of at least 2,000 people purchasing weapons in Greenville, S.C., 215 of them had prior arrest records, and 73, prior felony convictions.

Now, these are the reasons why I have reservations about the possible program which the Attorney General discussed; but we should understand that Mr. Levi mentioned this concept only in the course of a general discussion of the handgun control problem, he did not commit himself or the Department to it. It is, I repeat, welcome to see the Department at least thinking out loud about this.

There is a bill, S. 1447, introduced by Senator Kennedy and Senator Stevenson, that would ban domestic output of handguns with a

<sup>1</sup> National Advisory Commission on Criminal Justice Standards and Goals, 6 vols., 1973, for sale by Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

barrel of less than 6 inches. Six inches plus stock is a sizeable weapon. I support the objective of seeking to help curtail the availability of small, concealable handguns, which are used in a very high percentage of handgun crimes. But even reducing the production of small, concealable handguns will not give us protection against the 40 million or 50 million handguns already in private hands. It would not prevent criminals from using slightly bulky handguns for their holdups, and it would not deal with that portion of the handgun deaths which in total number constitute the greatest proportion of handgun deaths—that is those deaths which result from family arguments or arguments between acquaintances where there is a handgun readily available to resolve the dispute.

It may be a little tougher to get a 6-inch weapon out of the bureau drawer than a 5½-inch weapon, but if you are mad enough, it will not slow you much.

I have asked permission to have printed in the record the several news stories and a list of public authorities that have moved in support of an absolute prohibition against all handguns by private individuals.

Mr. Chairman, thank you very much.

#### PREPARED STATEMENT OF SENATOR PHILIP A. HART

Mr. Chairman, I am pleased to be given the opportunity to testify before your subcommittee on the subject of handgun control. I want to commend you for your past efforts in this area and for holding these hearings as part of the continuing effort to build public understanding of the relationship between handgun control and the reduction of crime.

S. 750, which I have sponsored, would limit *handgun* ownership primarily to law enforcement officers and security guards. It would also permit the ownership of target pistols kept at licensed gun clubs and of guns considered collector's items.

All other handguns would be purchased by the Federal Government at their fair market value and destroyed. The legislation would in no way affect ownership of long guns.

The theory behind this approach to handgun control is not complicated.

1. While rifles are used primarily for wholesome sporting activities and are difficult to conceal, handguns are designed primarily for use against humans and can be easily concealed.

2. Handguns are used in an increasing number of killings in our country, the large majority of which result from anger at a friend or family member rather than in defense against an intruder, burglar, robber or mugger.

3. Study after study shows that the handgun is an ineffective defense against crime.

4. Since I first introduced this bill in 1971, the number of privately-owned handguns in the country has increased from 25 million to 40 million, and the only way to rid society of that massive number of handguns is to prohibit the ownership as well as the production and importation of handguns.

While I will discuss each of these points in more detail, I would first like to mention three recent newspaper articles which, added together, make a strong case for a total ban on handgun ownership.

The Sunday Chicago Tribune reported that a "polite, sweet little man" with a Ph.D. shot four people to death, wounded three others, and then killed himself. The man invited twelve guests to dinner and, following the meal, he went into his bedroom and emerged with two revolvers. After shooting at his guests, he went back into the bedroom and shot himself with a third revolver. The dead included two children, age 8 years and 1 year. One adult and two children, aged 4 and 2, were wounded.

Less than 2 weeks ago, a young man began a series of random shootings at a major intersection in nearby Wheaton, Maryland, which resulted in the deaths of two people and the wounding of five persons before he was shot by police.



This past Sunday's Washington Post carried another story on the impact of handguns, only that story dealt with not the death and violence that accompanies handguns, but with what I would wish for our society—a lack of violence in the absence of handguns. The "Outlook" section of the Washington Post carried a story entitled "The World's Largest City Is Also the Safest." That city is Tokyo, where handguns are banned completely. Here are the statistics of that "handgunless" city, which has 11.6 million people, almost 4 million more than New York City. In Tokyo last year, there were only 189 murders. Not one was committed with a handgun. In New York City, there were 1,554 murders of which more than 700 resulted from handguns last year. (Washington Post, Sunday, April 20, 1975, p. C2).

One can make a pretty good guess that had the Ph.D. or the man in Wheaton embarked on a killing spree in Tokyo, where handguns are almost impossible to come by, far fewer people would have died.

If the statistics of Tokyo are accurate, and I have no reason to doubt that they are, we should need no further proof of the benefits of a society without handguns. I hope that members of this subcommittee and others in our Nation will look closely at and learn from the example set by the world's largest city.

However, my conclusion to ban handguns is not simply a reaction to newspaper stories, but was based initially on studies and conclusions reached by the Eisenhower National Commission on the Causes and Prevention of Violence, of which I was a member.

Let me expand briefly on why I believe there must be a ban not only on the importation, manufacture and sale of handguns, but a ban on possession as well. It is very simple. There are 50 million handguns at large in the United States, and unless this vast reservoir of handguns is dried up, the easy accessibility of criminals to these guns, through theft, burglary and second-hand commercial traffic, will continue. While reducing the potential accessibility of criminals to handguns is an important goal of restricting handgun possession, a secondary, but vital purpose of my bill would be to reduce the incidence of handgun deaths resulting from arguments between family members and acquaintances which constitute 60 to 70 percent of all handgun deaths. It is ironic that so many guns that are purchased allegedly to protect the home are ultimately used to end domestic arguments.

The supposed deterrent effect of handguns as a protective device for the home is, in practice, highly ineffective. As I have just mentioned, nearly 60 to 70 percent of all handgun deaths involve acquaintances and household members. In only one percent of all home burglaries was an intruder shot by a householder. The conclusion that seems reasonable to draw from these facts is the one reached by the Peterson Commission, established by the U.S. Justice Department with LEAA funds.

The Commission concluded:

"All of the argument against prohibiting the private possession of handguns become, by comparison, subordinate to the death, tragedy and violence that abound in the absence of such legislation."

Mr. Chairman, I just want to reemphasize one point about S. 750. The bill only applies to *handguns*—handguns are cheap, concealable, and they are the weapons most often used in street crimes and robberies, most often used against police, too often used in anger against a relative or friend.

Rifles and shotguns, on the other hand, are primarily hunting weapons. While they can be used to commit crimes, they are not readily concealable, and they are not primarily designed for killing or wounding humans. Therefore, this bill only restricts the manufacture, sale and possession of handguns. I hope that the National Rifle Association and other sporting groups will not seek to distort the scope of the legislation I have proposed. I do not seek any restriction on the possession of rifles, though I do think state-sponsored training programs for young hunters would be desirable to prevent accidents.

*Would an effective ban on handguns stop killing?* Obviously, not completely. But the experience of Tokyo shows that an effective ban could result in a significant reduction in the number of deaths that occur each year, and that alone would be a major accomplishment in reducing the grip of fear on people who live in our urban communities. It would be particularly significant because handgun attacks presently constitute the most serious threat to the safety of our police, which, in turn, affects their ability to keep us all safe.

Mr. Chairman, I was encouraged by the recent statement of the Attorney General concerning the problem of handgun crime and the various programs

which might be instituted to control and reduce the present level of violence. I must say, though, that I am skeptical about whether a ban on possession of handguns limited solely to urban areas could effectively deal with the problem.

At the present time, we know that a significant number of the illegal handguns seized by police in New York were purchased in South Carolina, and there is no effective means under present law through which New York can stop this flow of weapons. It is not surprising that these guns from South Carolina and other states constitute a substantial portion of the flow of guns into New York, for South Carolina is the first state as you travel south which permits virtually wide-open gun sales.

A recent investigation by the Alcohol, Tobacco and Firearms Bureau of the Treasury Department indicated that of the last 2,000 persons purchasing weapons in Greenville, South Carolina, 215 people had prior arrest records, and, even worse, 73 had prior felony convictions for such crimes as housebreaking, armed robbery, assault, murder, rape and possession of heroin.

I think it is incredible that we do not require a prior check on handgun purchasers.

These are some of the reasons why I have reservations about the possible program which the Attorney General discussed. I want to be careful to indicate that Mr. Levi mentioned this concept only in the course of a general discussion of the handgun control problem, and he did not commit himself or the Department of Justice to that idea.

Next, let me comment briefly on S. 1447, the bill introduced by Senator Kennedy and Senator Stevenson. This bill would ban the domestic output of handguns with a barrel of less than 6 inches in length. I support this legislation in respect to the objective of seeking to help curtail the availability of small concealable handguns which are used in such a high percentage of handgun crimes. But even reducing the production of small, concealable handguns will not give us adequate protection against the 50 million guns already in private hands, and it would not prevent criminals from using slightly bulky handguns for bank robberies, hold-ups and muggings.

Moreover, it would not reach, or effectively deal with, that portion of handgun deaths which, in total number, constitute the greatest proportion; that is, those deaths which result from family arguments or arguments between acquaintances where there is a handgun readily available to "resolve" a dispute.

Mr. Chairman, I would like included in the record of these hearings the Washington Post article about Tokyo and a Wall Street Journal article which suggest that Belfast, North Ireland is safer to visit than some of our cities.

In closing, I would like to read the final four paragraphs of the Wall Street Journal article:

"Yet there are moral and practical problems with learning to live with violence, both summed up in poet John Donne's phrase 'no man is an island.'

"The moral problems lie at the heart of the American dream: our national greatness is defined in large measure by what we can provide for the least-advantaged among us. The practical problem is that violence is difficult to contain. If we want to protect the small grocer or the local cop from random gunfire, we must also protect the rest of those who so casually become the statistics of our urban violence. The same desperate young who kill one another are also frightening the rest of us off the streets. As long as violence is an urban disease, no city dweller is immune from its contagion. And the steps we take to provide real security for ourselves must necessarily help our fellowmen.

"Yet the prospects for constructive action are dim. So far, our political leaders have either ignored the real problems of urban violence or have concentrated on the quick, easy and cheap prescriptions that are worse than no remedy at all. This is not the place to detail the steps we could take to reduce violence in this country is simply another symptom of failure to face up to our profoundly serious problems.

Even with the best of intentions, our urban body count will be hard to diminish. If we continue to adjust to bloodletting, and to view violence as a non-problem, there is every chilling prospect we will get what we deserve."

## [EXHIBIT No. 1]

[From the Chicago Tribune, April 20, 1975]

## SLAYER OF 4 'POLITE, SWEET LITTLE MAN'

(By Dave Schneidman and Alan Merridew)

The puzzle of Brij Kishore's life began fitting into place Saturday, revealing the Indian Ph.D. who slew four persons and then himself as a lonely, almost monastic figure.

Cheaply furnished but clean, the apartment of the 36-year-old Kishore at 1225 W. Loyola Av. still bore evidence Saturday of the mass slaying which occurred there Friday night and the dinner party which preceded it.

On a plastic and chrome steel dining room table was a crust of pizza, white paper plates bearing stains of curried rice and beans, and an aluminium pot containing rice.

In stark contrast was the blood-soaked bed where Kishore took his own life after he shot at 12 guests, killing two children and two adults.

"This is the first time I've heard of him having anyone up there," said a shaken Phil Gosenski, engineer of the apartment building and the man who knew Kishore perhaps better than anyone else.

"Oh yes," Gosenski corrected himself, "I saw him and another man together a couple of weeks ago."

Kishore never entertained women guests and apparently never married, according to Gosenski.

"He was a lonely man, very lonely here. He had nobody. The others in the building never had anything to do with him."

Kishore returned to India the summer before last, "and stayed about six weeks," Gosenski said. "He wrote to me that he was thinking of staying there but he came back.

"He never drank, except that once in a while he'd have a glass of wine when we went out to eat."

Kishore, he said, occasionally took him to Indian restaurants and he would reciprocate by taking Kishore out for dinner.

Another resident of the building described Kishore as "a polite, sweet little man."

Gosenski agreed: "Kishore was the nicest man you'll ever see. He was the kind of little man you instantly like and want to protect."

When he last saw Kishore, on Monday morning, Gosenski recalled, he asked, "Hey Brij, when are you going to get married?" Kishore just smiled and answered, "I'm too old for that."

Kishore was an engineer at Sargent Lunday, consulting engineers at 55 E. Monroe St. The three men whose families he invited for dinner also hold doctorate degrees and were coworkers.

According to police, Kishore offered his guests dinner, then went to his bedroom and emerged with two revolvers.

After opening fire on his guests, Kishore went back into his bedroom and shot himself, using a third revolver.

Two neighbors, Allan Hess and Dave Coughlan, said they heard a woman running down the hallway of the apartment building banging on doors and crying for help.

"She had a bullet wound in the stomach and one arm," Hess said, "and she was carrying a child in her arms who looked pretty bad. She told us he was dead."

Besides Kishore, the dead were identified as Kamalkant Bheda, 33, of 4129 N. Bernard Av., shot in the chest; Champa Mehta, 33, of 9013 LaCrosse Av., Skokie, who died of wounds after being admitted to St. Francis Hospital, Evanston; Mehta's daughter, Anita, 8, pronounced dead at Edgewater Hospital; and Balu Valathur, 1, of 6126 N. Damen Av., who died during surgery at Edgewater Hospital.

Wounded are: Balu's father, Munirathnan Valathur, 33, Valathur's son, Mani, 4; and her son, Anil, 2.

Four other persons, including two children, escaped without injury.



Police called the slayings the largest mass murder in Chicago since Richard Speck killed eight nurses in 1966.

In June, 1973, seven persons were slain in suburban Palos Hills, by William Workman, 45, a mental patient.

### [EXHIBIT No. 2]

[From the Wall Street Journal, December 20, 1974]

#### A TALE OF TWO CITIES

(By Franklin E. Zimring)

If you have a Detroit friend seeking a relatively safe vacation in a setting of near-civil war, the place for him to go is Belfast, Northern Ireland.

Not that it's dull in Northern Ireland. Since 1969 the rate of deaths from violence has increased more than twentyfold. In the peak year of 1972 a total of 476 persons were slain: 70% of the casualties were civilians. Since January 1969 more than 1,000 people were bombed or shot to death in that small country—a reign of terror sufficient to draw world attention to "bloody Ulster," and to require British military occupation and preventive detention.

But as the latest FBI reports show, your Detroit friend will be relatively safe in Northern Ireland, about four times as safe as at home. It happens that the city of Detroit (1,513,000) has almost exactly the same population as the whole of Northern Ireland (1,536,000). Yet in 1973 alone, Detroit police reported 751 deaths from criminal homicide, 24 more than the total number of civilians killed in Ulster during the five and a half years from the beginning of the "troubles" in 1969 through the end of this past June. In 1973 the rate of civilian deaths in Northern Ireland was about one quarter of that in Detroit. Northern Ireland's troubles continue; however, so far this year the death rate is lower there, but up in Detroit.

Of course, there are safer places to live than Northern Ireland but surprisingly few of them are major American cities. During the past decade, violent killing in American cities has more than doubled. In 1973 each of the 10 largest American cities had a homicide rate higher than that of Northern Ireland. We too have our "troubles."

#### AN INSTRUCTIVE CASE STUDY

This comparison is intended neither to belittle the sorry situation in Ulster nor to argue for the military occupation of Detroit. It is instructive, however, as a case study in the comparative psychology of social problems. When do people perceive violence as a major social problem, and why? What kinds of antiviolence programs will they tolerate? How much do they care?

Detroit has more violence, but Belfast, judged by all measures of expressed social and governmental concern, has the more serious violence problem. There are three reasons why Ulster suffers more than Detroit: Detroit is used to high homicide rates; most of those killed in Detroit are ghetto dwellers; and killings in Detroit are not a direct threat to public political order as it is in Ulster, where soldiers and police are primary targets.

The first reason why Detroit (and her sister cities) can absorb so much violence without alarm is that Americans have had ample time to get used to high homicide rates. As Winston Churchill said: "Eels get used to skinning."

In 1967, when Northern Ireland experienced eight homicides, Detroit had 211; and the average urban homicide rate in the United States was 10 times as high as any European city experiencing what it would call a crime wave. The recent epidemic levels of violence in our city streets are thus borne with equanimity if not apathy: they are less of a surprise than the relatively benign carnage that has produced desperation in Ulster.

But how is it possible to adjust to such rates of violence? In an important sense it's easy. Because most of the urban body count in the United States involves the faceless young black male "non-citizens" who live and die without conspicuous outpourings of social concern. It is, in fact, misleading to talk of a single homicide rate in American cities, because ghetto-dwelling blacks kill and are killed at rates 10 times as high as big-city whites. Urban violence does, of course, affect a broader spectrum of society—small shopkeepers, street robbery victims, and men, women and children who just happen to be at the

wrong place at the wrong time. But the great majority of victims are the black poor.

Finally, Detroit's brand of violence represents no direct threat to public political order. In Northern Ireland, for example, three hundred policemen and soldiers have been killed since 1969—30% of all fatalities. In the United States, while killings of police have increased substantially, they are still about one half of 1% of total homicide. To confirm the importance of this element, imagine the distress that would have ensued if 60 policemen had been killed in Detroit last year—and that would be less than 10% of the city's homicide!

So perhaps the moral of this story is that statistics are misleading, that Detroiters really shouldn't worry about their 750 killings a year. After all, the nation's homicide toll is only about 40% of our annual highway deaths, and highway safety is such a nonproblem that it takes a gas shortage to bring this country to a life-saving 55-mile-an-hour speed limit. And most of us are pretty safe, after all: protected by skin color, security precautions, and a largely unthreatened police. Perhaps it is better to contain our homicide epidemic by evacuating our cities at the cost of increasing social division than to experiment with all that soft-headed junk that came out of the National Commissions on Crime, Social Disorder and Violence? Perhaps it is better to hide behind handguns, tear gas pens, and German Shepherds than to take the first difficult steps toward handgun control? Perhaps we can protect ourselves and accept violence as an occupational hazard of urban life for the poor?

It seems that we are on the way to such an adjustment. In my local newspaper I find, on the same page, the story of a girl shot to death while waiting for a traffic light to turn green by the occupants of a second car and an account of a five-minute "shoot-out at the OK Corral" in a local gas station. The page, incidentally, was 57, the obituary page.

#### JOHN DONNE'S SUMMING-UP

Yet there are moral and practical problems with learning to live with violence, both summed up in poet John Donne's phrase "No man is an island."

The moral problems lie at the heart of the American dream: our national greatness is defined in large measure by what we can provide for the least-advantaged among us. The practical problem is that violence is difficult to contain. If we want to protect the small grocer or the local cop from random gunfire, we must also protect the rest of those who so casually become the statistics of our urban violence. The same desperate young who kill one another are also frightening the rest of us off the streets. As long as violence is an urban disease, no city dweller is immune from its contagion. And the steps we take to provide real security for ourselves must necessarily help our fellowmen.

Yet the prospects for constructive action are dim. So far, our political leaders have either ignored the real problems of urban violence or have concentrated on the quick, easy and cheap prescriptions that are worse than no remedy at all. This is not the place to detail the steps we could take to reduce violence in American urban life. But the reader can be assured that they will be slow, difficult and expensive. The political cant that passes for dialog on violence in this country is simply another symptom of failure to face up to our profoundly serious problems.

Even with the best of intentions, our urban body count will be hard to diminish. If we continue to adjust to bloodletting, and to view violence as a nonproblem, there is every chilling prospect we will get what we deserve.

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#### [EXHIBIT No. 3]

[From the Washington Post, April 14, 1975]

#### GUNMAN KILLS 2 AND WOUNDS 5 BEFORE POLICE SLAY HIM

(By Martin Well and Donald P. Baker)

A smirking gunman who walked along busy thoroughfares near the Wheaton Plaza shopping center shooting at black motorists and pedestrians last night

killed two persons and wounded five before Montgomery County police shot him to death.

Montgomery County Police early today identified the gunman as Michael Edward Pearch, 29. Police said his mother lived in Silver Spring but he had been staying at a friend's house in Friendsville, Md. over the last year. Police said Pearch was wearing an Army fatigue jacket and carrying an Army knapsack but he carried no identification. Police said the gun he used was a military-issued .45 caliber pistol.

Although no reason could be learned for the 30-minute flurry of shooting on Viers Mill Road, Georgia Avenue and University Boulevard, all of the victims were black and a police spokesman said the gunman was "apparently selective." "Apparently the guy was just walking along with a .45 shooting people," Montgomery County police Lt. G. E. Fusco said after the shooting ended about 7:45 p.m. with six motorists and one pedestrian killed or wounded.

The gunman "obviously passed up white persons who would be potential victims," according to Montgomery County Police Capt. Miles R. Daniels. Firing nine shots and reloading his gun at least once, the man carried out his deadly task "in a deliberate, calm, matter-of-fact manner," Daniels said.

As excitement mounted on the streets where the gunman walked in the gathering dusk, his shots struck victims who included a teacher, a high school student, two chemists and a university professor.

The first person slain was identified as John Sligh, 40, of 5314 Crestridge La., Rockville, a chemist at the National Bureau of Standards. He and his wife, Lorene, 40, also described as a Bureau of Standards employee, were in a station wagon at a Viers Mill Road entrance to Wheaton Plaza. She also was shot and was listed in undetermined condition last night at Holy Cross Hospital.

Also slain was Connie Stanley, 52, of 125 Hamilton St. NW. He apparently was shot once in the left chest while driving along Georgia Avenue. Relatives described him as an organic chemist at the Bureau of Standards for almost 20 years.

Stanley's niece, by marriage, 26, of Annapolis, was also shot and wounded while riding as a passenger in another car. A teacher who had been on maternity leave since the birth of her child four months ago, she is the wife of a Marine Corps captain. She was to be operated on last night at Holy Cross for a gunshot wound in the back.

The gunman, who had continued walking north alongside Viers Mill Road approached the Slighs' car and fired into it at point blank range. A witness, William Painter, 19, of Wheaton said he heard what sounded like firecrackers and saw a man holding a pistol with his arms extended, pulling the trigger.

"He was smiling," said Painter. "I thought he had been shooting blanks."

Then Painter said he saw a woman, apparently Mrs. Sligh, emerge from the car, bleeding from leg wounds.

According to witnesses, the gunman fired at other cars in addition to the Slighs' at the shopping center exit and then ran across the street.

Painter said he and a friend, Joy Barney, 18, of Silver Spring, pursued the man, shouting at him. They said they saw the gunman turn, smirking.

Police also said that the gunman appeared to smirk during the shooting spree.

After leaving the shopping center exit, the gunman walked east on Readie Drive and north on either Grandview Drive or Georgia Avenue toward the intersection of Georgia and University Boulevard.

He shot three more people there. The first was a pedestrian, apparently Harold Navy, who is a student at Albert Einstein High School. He was on an errand for the Anchor Inn when he was shot.

The gunman then shot the driver of a car headed south on Georgia Avenue. By now, witnesses said, police had arrived on the scene. They began yelling for him to stop. He turned and looked at the police, and kept going. He fired at a Pinto driving west on University Boulevard, apparently hitting his last victim.

"I saw the police shoot him," a witness said. "Right across from Dabby's Corner Inn. The police waited until he got around the corner. They were maybe 30 or 40 feet from him."

"I believe they yelled something at him. He had an opportunity to stop."

The gunman was killed by a shotgun blast, according to police. He was pronounced dead in the street.



Many persons witnessed the final moments of the incident. Traffic was jammed. Lights were flashing on police cars.

At the end, said Joe Dabby, owner of the Inn, "a cop appeared on foot and he told him to stop.

"The cop hollered something, sounded like 'freeze.' The gunman turned around and looked at him and the cop shot him. Two shots, I believe."

Police said the gunman had pointed what was later found to be a loaded and cocked automatic at them.

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[EXHIBIT No. 4]

[From the Washington Post, Apr. 20, 1975]

THE WORLD'S LARGEST CITY IS ALSO THE SAFEST

(By Don Oberdorfer)

TOKYO.—On the morning of Dec. 18, 1971, the postman brought an unexpected "year-end gift" to the home of Kuniyasu Tsuchida, director of personnel and training for the Tokyo Metropolitan Police. Mrs. Tsuchida's fingers, tugging at the parcel wrappings, tripped the detonator of a powerful explosive. The blast rocked the house, killing her instantly and seriously injuring a 14-year old son.

Teams of detectives combed through the wreckage to reconstruct the bomb and its wrappings, tracing it back to the post office where it had been mailed and comparing its every detail with previous antiestablishment explosions. Fifteen months and 126,000 man-days of investigation later, four radicals in their mid-20s were arrested for the bombing.

The seemingly extravagant use of manpower and meticulous attention to detail by the police are among the many organizational, legal and cultural reasons why the largest city in the world is also the safest. Terrorist bombings are all the more shocking to the Japanese because Tokyo is otherwise so crime-free.

According to official data, Tokyo, with 11.6 million people, had 189 murders last year. This compares to 1,554 murders in New York, with 7.9 million people, and 277 in Washington, a city of 723,000. Tokyo reported 425 robberies last year, compared to 77,940 in New York and 7,941 in Washington. Tokyo reported 420 rapes (New York 4,054; Washington 561) and 6,048 cases of assault (New York 41,068; Washington 2,811. More than half of all the crimes in Tokyo are solved.

While urban areas of the West have experienced an explosion of crime, Tokyo's crime data have remained stable or even declined in recent years. Until a recent, destructive wave of terrorist bombings came along, virtually all discussion of security conditions in this city was in proud superlatives.

A CLOSE-KNIT SOCIETY

Everyone has his set of explanations for the low-crime phenomenon of Tokyo—and the rest of Japan—where men, women and children normally can walk the streets and even back alleys at any time of the day or night without concern; where pedestrians observe traffic signals and cross at and with the light, and where mislaid valuables and even cash are likely to be recovered as a matter of course (slightly over half of the \$23 million in lost cash was handed in to police and turned back to the owners last year).

Certainly Japanese culture, a close-knit society with a unified racial background, language and standard of conduct, has much to do with this. As a matter of necessity, the Japanese have learned to live with one another in a small, crowded chain of islands by adherence to a rigid code and consideration for others.

Another factor often cited by police as well as foreign observers is strict control of guns and other dangerous weapons—ironically an outgrowth of postwar occupation policy of the United States, which lacks such a policy. Not a single person was killed by a handgun in Tokyo last year, and police recorded only 10 incidents in which handguns were involved (including two attempted murders and four cases of extortion). Private possession of handguns is forbidden, except for five expert participants in international shooting competitions and 13 referee-starters at athletic games, who have special permission.

Underworld organizations, or *yakuza*, are known to have some guns hidden away, and 185 were confiscated by Tokyo police last year. (Most of them had

been smuggled in from elsewhere in Asia or laboriously fashioned from toy models.) Due to the relative scarcity of weapons, most of the gun battles in Japan are strictly limited to television and motion picture dramas. According to metropolitan police records, Tokyo police fired their service revolvers in action only four times in all of 1974. Two of those were warning shots in the air.

The pervasive but somehow unobjectionable presence of police authority is another key element. In Japan, the typical law officer is not an outsider driving past or arriving from a distant headquarters with sirens screaming, but the neighborhood *omawari-san*—literally, Honorable Mr. Walkaround—who is a permanent and familiar presence.

#### EVERYONE KNOWS

The backbone of law enforcement is the neighborhood *koban*, or police box, of which there are 1,250 scattered throughout Tokyo. Manned by one to 10 uniformed officers around the clock, the local *koban* provides information and directions in a city where the address system is a jigsaw puzzle. It also is a sense of security and available help in any time of need and—from the police viewpoint—an unbeatable source of local intelligence. Typically, half the on-duty staff is standing at the entrance or sitting just inside the glass-front *koban*, and the other half is walking the neighborhood or making calls on police business.

Throughout Tokyo there is one police box for every 1,100 residents, and each area of responsibility is subdivided into sectors assigned to individual officers (who tend to do two- to three-year tours of duty at one place). The job of the policeman is to know everyone in his sector, including a visit to each family twice a year. Such contacts usually are not resented but welcomed. Anything seriously amiss in a neighborhood is quickly obvious.

A highly advanced communications and control network links metropolitan police headquarters, squad cars and other mobile units, the 94 regional police stations and the 1,250 neighborhood outposts.

A locator system based on city-wide sensing devices and computers permits the central control room to identify the closest squad cars to any point within a matter of seconds in case of emergency; police boast it takes a patrol less than 3½ minutes on the average to reach any caller on the "dial 110" emergency telephone number. Every regional station and neighborhood police box is linked to headquarters both by special exclusive-use telephone lines and shortwave radios. Patrolmen as well as senior officers carry pocket radios which emit a signal whenever a message pertinent to their duties is transmitted.

#### THE TERRORIST WAVE

On February 1, when Tsuchida was named the Tokyo police department's superintendent general, he paid a ceremonial visit to the parents of his dead wife and told the old people he feels in daily contact with their daughter. As he sits before the small Buddhist altar in his home each morning, her voice seems to tell him, "Please do your best."

This is no easy job these days, for the Tokyo police are currently confronted with their greatest challenge in years—another and even more destructive wave of terrorist explosions. Beginning with the bloody noontime bombing of Mitsubishi Heavy Industries' headquarters building last August—which killed eight persons and injured 388—the city has been afflicted by a continuing series of explosive attacks on big business enterprises: The "Wolf," "Fan" or "Scorpion" sections of an "East Asia Anti-Japanese Armed Front" has claimed responsibility for them all.

After the sixth and latest assault—three virtually simultaneous time bombs in the skyscraper offices and a repair plant of Hazama Gumi Construction Company on Feb. 28—the press and public patience began to wear noticeably thin.

"We want the police to make serious self-criticism for their failure to live up to the public expectation to keep law and order," declared the Mainichi, a major Tokyo daily newspaper. "The terrorists apparently had no difficulty planting their bombs . . . we thought the police knew the way the radicals would think and act, but they could not prevent the explosions," complained the mass circulation Yomiuri.

Superintendent General Tsuchida has ordered his department to place maximum effort on the bombing cases. "Now is the transitional point to determine whether we retain our postwar Japanese standard or become a European-type capital with widespread violence and arrests without warrant," he has told

senior officials on the force. He has expressed fear that terrorist actions, if unchecked, would turn Tokyo into a guerrilla battle zone.

#### SPECIAL UNITS

Sitting in his spacious office in the ornate building which has served as police headquarters since pre-war days, Tsuchida was asked how many men are assigned to the terrorism cases.

"All 43,000 officers are doing their best, wherever they are," was the reply. Following their customary practice police have opened a "special investigation headquarters" to deal with each of the bombing incidents. A total of 503 full-time officers are currently assigned to these special units.

The Mitsubishi bombing task force, largest of the special investigative bodies, has assembled a mockup of the two large bomb-enclosing canisters from 650 fragments, the largest of which was no bigger than a teacup bottom. Officers have identified the producer of the containers—originally intended as auxiliary fuel drums—and narrowed down the makeshift bomb casings to a lot of 70 drums manufactured last year.

So far, detectives have been able to locate 61 of these throughout Japan, leaving nine to go. Investigators have pinpointed the neighborhood from which two young men boarded a subway gingerly carrying two large cylindrical parcels. House-to-house search for information has been conducted there. Another task force has been making the rounds of printing shops which might have been the source of the radical bomb-making guidebook "*Harbara Toke*" (Belly Clock), which is believed to have been employed by the culprits. For reasons such as these, Superintendent General Tsuchida is confident the criminals will be caught in due course. He is willing to say publicly they will be identified within this year.

If the highly organized police system of Japan were used for totalitarian control—as it was just before and during World War II—this country could easily become a police state almost overnight. This seems highly unlikely, barring a worldwide upheaval leading to a complete political reversal in this country.

Even the recent bombings seem now to be more of an irritation than a serious threat, since the radicals appear to have virtually no support from any major element of the Japanese public. The Japanese Communist Party, which is seeking to gain power by parliamentary means, has been particularly vehement in denouncing terrorism.

Following Japan's defeat in World War II, Japanese military forces were disbanded by U.S. occupation order, and generals and admirals tried as war criminals or purged. The civil police institution was retained intact, except for the elimination of the "*TOKKO*," or thought control agency, and virtually the entire prewar police hierarchy was essentially untouched.

Then as now, senior police officials were a high-prestige group with top-of-the-class ratings from the best universities and widespread respect in Japanese society.

Today, the combined strength of Japan's civil police forces is 192,700 officers plus 36,000 civilians, for a total of 228,700. Police work is a popular profession, with several times as many applicants as available openings even in boom times.

By contrast, the "Ground Self-Defense Force," the Japanese version of an army, numbers 154,000 men nationwide. There is normally great difficulty filling the ranks. The first post-war military force in Japan was camouflaged by Gen. Douglas MacArthur as "police reserves"—regular military forces being banned by the earlier U.S.-imposed "no-war" constitution. Many of the senior military bureaucrats today are former career police officials.

#### LIMITED POWERS

The Tokyo metropolitan police force resembles a well-trained army in many respects. Basic training in one year of disciplined group life and dormitory existence for male high school graduates, and six months for university graduates and policewomen. Every officer is required to master *judo* or *kendo* (Japanese swordsmanship). The police wear tiny rising suns as insignias of rank.

Police stations and neighborhood *kobans* are equipped with excellent communications, sandbags and other fortifications and the only weapons in the neighborhood. For all this, the police are the servants of a benign and generally democratic political system and are strictly limited in their methods of investigation and interrogation and their powers of arrest.



The man at the top of Tokyo's police hierarchy, Kuniyasu Tsuchida, is the 52-year-old descendant of a *Samurai* clan north of Tokyo. His father was the prewar equivalent of a college dean, and he himself was a graduate of Tokyo University Law School, the most prestigious educational unit in the country. He became a naval officer just after graduation in 1943 and narrowly escaped death both on the superbattleship *Musashi* and the aircraft carrier *Unyo* when they were sunk by American torpedos.

He joined the metropolitan police as a key official in 1948. Japanese to the core, he is expert in *iai*, a particularly sophisticated and traditional form of *kendo* in which razor-sharp swords are used rather than wooden staves. In his garden every morning, Tsuchida exercises with 300 slashes in the air with his 30-inch sword. He practices at the Police *kendo* hall several times a week.

Tsuchida was singled out for attack by extremist bombers in 1971 because of published remarks defending the fatal shooting of a leftist demonstrator by a policeman under seige.

The loss of his wife of 25 years in the parcel bomb explosion was a personal travail he will never forget. Last April he remarried, but he has had little time for a honeymoon. He is spending much on his available time on the scent of the latest group of bombers disturbing Tokyo's accustomed crime-free existence.

#### [EXHIBIT No. 5]

#### FIREARMS ORGANIZATIONS

Administration of Justice Committee, 508 Ten Ten Euclid Building, Cleveland, Ohio 44115.

American Pistol and Revolver Association, 325 Pennsylvania Avenue SE., Washington, D.C. 20003.

Citizens' Committee for the Right to Keep and Bear Arms, Bellefield Office Park, 1601 114 SE., Suite 151, Bellevue, Washington 98004. U.S. Capitol Office, 1721 DeSales Street NW., Suite 500, Washington, D.C. 20036.

Citizens United to Save Lives, Box 5038, Grosse Pointe Station, Michigan 48236.

Civic Disarmament Committee for Handgun Control, 5532 South Shore Drive 15F, Chicago, Ill. 61637.

Coalition for Handgun Control, 10345 W. Pico Boulevard, Los Angeles, Calif. The Committee for Handgun Control, Inc., 111 East Wacker Drive, Chicago, Ill. 60601.

Committee for Humane Legislation, Inc., 11 W. 60th Street, New York, N.Y. 10023.

Committee for Survival of a Free Congress, 6 Library Court SE., Capitol Hill, Washington, D.C. 20003.

Committee for the Study of Handgun Misuse, 111 East Wacker Drive, Chicago, Ill. 60601.

Committee to Restore the Constitution, Suite 990 Savings Building, Ft. Collins, Colo.

Council for a Responsible Firearms Policy, Inc., 826 First Street, Southeast, Minot, N. Dak. 58701.

Defenders of Wildlife, 2000 N Street NW., Washington, D.C. 20036.

DISARM, 175 Fifth Avenue, New York, N.Y. 10010.

The Environmental Action Foundation Inc, 732 Dupont Circle, Washington, D.C. 20036.

Friends of Animals, 11 W. 60th Street, New York, N.Y. 10023.

Friends of the Earth Foundation, Inc., 529 Commercial Street, San Francisco, Calif.

The Fund for Animals, 1765 P Street NW., Washington, D.C. 20036.

Gun Control Federation of Cleveland, 1315 Terminal Building, Cleveland, Ohio.

Handgun Alert, Inc., P.O. Box 6771, Providence, R.I. 02940.

Humane Information Services, Inc., 4521 4th Street, St. Petersburg, Fla. 33705.

Indiana Sportsman's Council, P.O. Box 93, Bloomington, Ind.

Massachusetts Council on Crime and Correction, 3 Joy Street, Boston, Mass. 02108.

National Alliance to Keep and Bear Arms, P.O. Box 71, Norborne, Mo. 64668.

National Coalition Against Poisoning of Wildlife, P.O. Box 14156, San Francisco, Calif. 94114.

National Coalition to Ban Handguns, 100 Maryland Avenue, NE., Washington, D.C. 20002.

National Council for a Responsible Firearms Policy, Inc., 1028 Connecticut Avenue, NW., Room 909, Washington, D.C. 20036.

National Council to Control Handguns, Inc., 1910 K Street, NW., Washington, D.C. 20006.

The National Gun Control Center, 1201 Connecticut Avenue, NW., Washington, D.C. 20036.

National Rifle Association, 1600 Rhode Island Avenue, NW., Washington, D.C. 20036.

People vs. Handguns, Sheriff John L. Buckley, 3 Joy Street, Boston, Mass. 02108.

The Sierra Club Foundation, 1500 Hills Tower, 220 Bush Street, San Francisco, Calif. 94104.

Society for Animal Rights, Inc., 900 First Avenue, New York, N.Y. 10022.

U.S. Conference of Mayors Handgun Control Project, 1620 I Street, NW., Washington, D.C. 20006.

United Sportsman Association, RD. 3, Box 144, Sewell, N.J. 08080.

Senator BAYH. Thank you, Senator Hart, for initiating our hearings for us here. I have no questions. I wonder if our distinguished colleague from Massachusetts has questions or perhaps a statement he would like to make for the record.

Senator KENNEDY. Thank you very much, Mr. Chairman.

I have a statement. I would like to have it printed in its entirety. Senator BAYH. Without objection, it will be placed in the record,<sup>1</sup> and you may comment upon it as you wish.

### STATEMENT OF SENATOR KENNEDY

Senator KENNEDY. I attempt in my statement to indicate at least the approach that Senator Stevenson and I have taken, which is really not very much at odds with the Senator from Michigan. Senator Hart.

I could enthusiastically, wholeheartedly support his proposal and will work for it strenuously in the committee and on the floor if that is the decision and the determination by those that want some meaningful handgun legislation and feel that that is the best means and measure.

It is my understanding that of the approximately 40 million handguns there are only about 150,000 that are over 6 inches. That small amount would be the number of handguns authorized under provisions of my bill. And under Senator Hart's bill those guns would be authorized for use in pistol clubs. I do not know whether we are talking about extremely small numbers, but nonetheless, it was an attempt which I think you well appreciate, to try and at least see if we could develop something extremely meaningful in terms of doing something about crimes and violence. This proposal shows at least some willingness to recognize some of the realities that exist among our colleagues in a political sense, in trying to enact effective controls.

But I do feel if possible, either in the proposal that Senator Stevenson and I have introduced, or in the Hart proposal, we can make an exceedingly important contribution in doing something about crime and violence in this country.

I did not get in for just the very opening comments of the Senator from Michigan, but I understand that he makes the point that

<sup>1</sup> See p. 20.

various presidential commissions that have been established with some of the leading criminologists and thoughtful individuals that have composed those commissions have all recognized the importance of handgun legislation.

#### GET HANDGUNS OFF THE STREETS

I know that there will be the points that will be made by those who are opposed to handgun legislation that they do not all agree. Perhaps they don't agree on the particular language, but there can be no question in any fair reading of the recommendations of these Presidential commissions about the thrust and the meaning of their recommendation, and that is to get handguns off the streets of this country.

And certainly it seems that proposal and that rationale has been justified time and time again by law enforcement officials before this committee and by others before this committee.

I would just say, before asking a couple of brief questions of the Senator from Michigan, I am very hopeful that we can move some legislation. There probably has not been a matter which has been studied as much and as long as the issue on gun legislation. We have had, I think, over 40 days of hearings on gun control legislation in the past 10 years. I think close to 200 witnesses have testified on gun legislation, and the arguments have been knocked back and forth time and time again.

I am very hopeful that we will permit this committee to exercise its will and the full Judiciary Committee to exercise its will. I have seen instance after instance where there were dilatory tactics in the Judiciary Committee on this serious issue. There probably have been greater dilatory tactics on this issue than any issue I have seen since I have been in the U.S. Senate. As a result, those of us who have been interested in this legislation, have been forced to seek other ways, outside of the committee to gain approval of gun control measures. This in no way reflects on the chairman of this subcommittee who has been I think extremely responsible both in his whole approach and in conducting these hearings and in trying to fashion legislation that would be meaningful.

But I am hopeful that those dilatory tactics which have frustrated a majority of the members of the committee who have tried to get some handgun legislation, I am hopeful we can avoid that in 1975. I think the time has passed for that, although I do not underestimate the power of the organized lobbying groups that will oppose it.

#### PREPARED STATEMENT OF SENATOR KENNEDY

Mr. Chairman: I welcome this opportunity to participate in the committee's hearings on handgun control. There is probably no other issue confronting the people of America today that is as serious as this one and deserving of the full consideration of this committee. For it is within our power both to inform the public of the need to control handgun abuse and to provide for ways to control such abuse.

On April 17, I introduced legislation that is specifically designed to restrict the public's access to handguns. Under the provisions of my bill, all privately owned handguns must be registered. Every handgun owner must obtain a Federal handgun license; and the manufacture, sale, distribution, and imports of all handguns with a barrel length less than 6 inches will be prohibited.



The reasons for this approach to the handgun problem are certainly well known and thoroughly understood by all of us on this committee. For the 12 years that I have been a member of this committee, the history of Senate action on the firearms crisis has been extensive.

At least 200 witnesses have provided over 4,000 pages of testimony during some 40 days of hearings.

The stories are always the same. Arguments on both sides of the issue never vary. The public demand for effective action remains constant.

Only the statistics change. Each year the number of gun deaths rises, so that more and more families are left to grieve those who died by gunfire in our Nation's homes and on our cities' streets. When I came to the Senate in 1963, the number of handgun murders in the United States totalled 4,200. Last year, in 1974, handguns were used to murder nearly 11,000 Americans.

In 1963, about 750,000 handguns entered the American marketplace. By 1974, at least 2.5 million handguns were produced and imported for sale in this country. At that rate, over 7 million handguns would be sold in this country during the year 1987.

People who complain that gun laws cannot stop gun violence ignore the enormous meaning of these statistics. Handgun production and imports in this country are increasing at such a rate that the two-gun family may soon become as common as the two-car family. And though we are all concerned about the menacing effects of criminals who use guns for armed robberies and assaults—our families and our neighbors are exposed to even greater dangers from their loved ones. Over 70 percent of people who kill with guns know their victim.

Handgun suicides account for as many deaths as handgun murders. And accidents needlessly account for too many handgun deaths and injuries.

I want to see this Congress accept its responsibility to enact a strong, enforceable law that can reduce the violence, the pain, the suffering and the deaths caused by too many handguns.

I am pleased to see the opening of these hearings, because I believe that the committee must be relentless in its pursuit of an effective law. I am sure that the witnesses who are appearing at this time will provide information that will begin to move us in the direction needed for effective action. In past years, I have consistently introduced legislation to control all civilian owned firearms, both handguns and long guns. Yet, despite the overwhelming statistical demand for effective controls, neither the Congress nor the administration has acted decisively to curb firearms violence. Each year, the Nation's morgues receive more and more bullet torn bodies.

In 1973, about 21,000 Americans died from gunfire. During 1974, the gun death tally rose to 25,000. And during 1975, we can expect that 26,000 to 27,000 Americans will be killed by gunfire. All firearms are lethal and potentially dangerous. But the national toll of gun deaths clearly shows that handguns disproportionately account for an uncommon percentage of gun deaths. Nationwide handguns account for 54 percent of all murders. Yet, handguns number less than 20 percent of all firearms in civilian hands.

It is because of this vastly disproportionate relationship that I seek to enact legislation that is designed to primarily focus upon the problems caused by too many handguns. Handguns are clearly the biggest single source of the firearms problem in America. And I intend to work diligently for a firearms control system that can eliminate the problems they cause.

Even though handguns account for 54 percent of all murders, these small deadly devices of infamy that we hear about so much in these times, are as easy to buy as flashlights. Strong and effective restraints against the easy availability of handguns are the best insurance against more gun violence. Any weapon that has no valid justification beyond its use in crime should be strictly controlled. My interest in the need for effective firearms legislation goes back at least to 1963. I have introduced firearms bills in the Senate on several occasions. I offered gun control amendments to pending legislation on the Senate floor. I have observed much of the testimony presented by nearly 200 witnesses, during more than 40 days of hearings on gun control since I have been in the Senate.

The issues never change. The arguments never vary. The statistics never recede.

In 1963, handgun murders totalled 4,200. Eleven years later in 1974, handguns were used to murder 11,000 Americans. The tragic toll of handgun sui-

cides and accidental handgun deaths pushes the annual figures well beyond reasonable limits for a society that claims to revere life and personal security.

There are many in this Nation who simplistically assume "... that more is better" for America. But I am sure that no one wants the annual increase in handgun deaths to be viewed as "typically American."

Gun manufacturers produce more guns each year, and American gun deaths increase right along with the output of firearms. Critical observers like Robert Sherrill in *The Saturday Night Special*, warn the Nation to arrest the headlong rush to the horrible logical conclusion that this trend suggests. As more and more of our loved ones and neighbors are killed with guns, each American is provoked or frightened into buying a gun for protection against other gun owners. If we as legislators fail to realize that the current toll of gun deaths is morally and socially excessive and must be curbed by law, we will have failed in our responsibility to ensure the safety of the citizens of our nation.

Lobbyists for the gun interests insist that new laws are not required. They demand that violators of existing gun laws be punished severely and swiftly. Punishment would deter gun violence, according to that claim.

Advocates for stronger controls, want to limit the massive output of guns. Many of them are alarmed to learn that handgun production rose from 568,000 in 1968 to 2.5 million in 1974.

For handgun manufacturers these may be profitable totals. But any gain from the profit of handgun output is sorrowfully overcome by the wanton abuse made possible by too many guns in civilian hands.

When our high schools must be policed against armed students, it is clear our society makes it too easy to obtain a handgun.

When jobless people can rent a weapon to hijack a taxi or rob a bank, the handgun industry has overproduced.

Seven years ago, I heard a member of the Chicago police force insist that young people who want laws changed must seek change through the due processes of law. Our system of government, he said, responds when change is necessary, and the proper way to make it respond is through legislative action, not through street demonstrations.

Today, I think of the fight for gun controls, a fight which has lasted through six Congresses and seven Attorneys General, a fight which has never been taken to the streets, but has been pursued lawfully and quietly in the hearing rooms, committee rooms, and chambers of this Capitol, a fight supported by over 80 percent of the American people, and even by two-thirds of the Nation's gun owners, but a fight which has not yet produced results.

What lesson, I wonder, have we taught our young and our dissatisfied in this history? They have seen the floodtide of gun tragedies proceed on unabated, while the legislative channels have been dammed at every turn by obstruction, obfuscation and delay. They have watched in horror as the facts of gun violence and bloodshed are reprovoked daily, while the enemies of change respond only with an effort to brainwash the Congress and the people into inaction.

And thus we have had inaction: The due processes of law have *not* responded to the public needs. The legislative machinery has creaked on slowly, going into reverse at times, and grinding to a halt at frequent intervals. After efforts enough to move a mountain, we have so far produced a mouse. Should the people now give up hope for the system? Should they take to the streets demanding action? Is this the lesson we shall teach them?

Plato suggested long ago "that man never legislates; but accidents of all sorts legislate for us in all sorts of ways." Must we suffer another accident of history to bring us together again for a last chance to redeem our pledge of leadership and of conscience?

Surely this is the issue that faces us. No one seriously doubts that the nearly unfettered flow of lethal firearms in our land facilitates gun crimes. No one honestly questions that a comprehensive system of handgun controls would help deny weapons to those who would misuse them. No one really believes that the man who would use a handgun in legitimate target shooting competition would consider it an inconvenience to show a license when he buys a gun. Our minds and our conscience tell us plainly what the right course is, and it is just a question of leadership.

For, some of our people have been misled by others. Some have succumbed to brainwashing by those with ulterior motives of one sort or another. Some have merely chosen sides in an artificial confrontation where there need be no

sides. Some have, understandably yielded to demagogic appeals and to panderings to emotion. We are all human.

But in the Senate of the United States, we are also chosen to be leaders of humans. It is within our power to remove the smokescreens from people's eyes and the cobwebs from their minds, to put the demagogues in their place, to help reason overtake emotion. And since these are within our power, they are our obligation if we are to be true to ourselves and to our oaths.

During the summer of 1972, the Senate approved legislation to restrict access to cheap handguns—the so-called Saturday Night Specials. However no action was taken by the House of Representatives on that measure. So today, protecting the people of our Nation from the lawless misuse of handguns, remains an important item on the list of our national social crises.

For that reason, I am proposing legislation to install a uniform nationwide system that will begin to control the widespread misuse of hand held firearms.

The Handgun Control Act of 1975 contains three basic provisions:

First: This bill requires that all handguns must be registered according to federally established standards.

Second: Each handgun owner must be licensed in order to have a handgun.

Third: This bill bans the distribution and the output of all handguns that have a barrel less than 6 inches in length. Only police authorities and military officials may be authorized to possess handguns with barrels less than 6 inches long.

The principal purpose of the first requirement—that all handguns must be registered—is to provide an improved system for law enforcement agencies to trace those who commit crimes with handguns. This provision covers handguns already in private ownership and those to be acquired in the future.

At least 35 million handguns are owned by the people of this Nation. And each year we are now placing nearly 3 million new handguns on the marketplace. Yet there is no system in this country that attempts to bring order to the explosive spread of these deadly little devices.

Registration will tell us how many guns there are, where they are, and in whose hands they are held.

Under my bill, registration information will be referred to the National Crime Information Center maintained by the Federal Bureau of Investigation, thus enabling enforcement officers throughout the country to trace immediately the ownership of any handgun. A person who carries a handgun must have a certificate of registration, to be exhibited upon the demand of any law enforcement officer.

Under the terms of the proposals, a violation of the registration provisions is punishable by imprisonment for up to 5 years, a fine of up to \$10,000, or both. The Secretary has authority to declare periods of amnesty during which previously unregistered handguns may be registered without penalty. Any purposeful falsification or forgery of registration information is punishable by imprisonment for up to 10 years, or a fine of up to \$25,000 or both.

The second feature of my bill requiring every handgun owner to obtain a license before he may be entrusted with a handgun is fundamental in guarding against the hazards of indiscriminately allowing criminals to obtain handguns.

A handgun is such a terribly vicious weapon, that members of a civilized society should mandate handgun owners to prove that they are not disqualified from having access to these instruments of death.

Under the provisions of my bill, if a State does not adopt a handgun permit system that meets minimum standards specified in the bill, Federal licensing will become effective until the State adopts an adequate permit system. No person—whether a licensed dealer or a private individual, may sell ammunition to an individual who does not have either an adequate State permit or a Federal handgun license. To qualify as having an adequate permit system, a State must restrict the issuance of permits applied for by convicted felons, fugitives from justice, mental defectives, alcoholics, juveniles, and drug addicts, and must adequately investigate applicants prior to the issuance of permits.

In States that do not enact adequate permit systems, Federal handgun licenses, valid for up to 3 years, will be issued by federally licensed dealers upon receipt—from both the chief law enforcement officer of an applicant's locality and a licensed physician—of information bearing upon his eligibility for a federal license.



The sale or possession of ammunition in violation of the licensing and permit provisions of the bill carries a maximum sentence of imprisonment of 5 years and a fine of \$5,000.

The purpose of the third provision of my bill—banning the domestic output of hand-held firearms with a barrel less than 6 inches in length is to get at the heart of the problem of those guns used in crime. Handguns with a barrel of 2, 3, 4 or 5 inches are so easily concealed that the weapons can be flashed at a moment's notice to intimidate, or overpower and then to wound or to kill. The handgun's role in crime is disproportionate to its number in comparison with long guns in the commission of homicide, aggravated assault and armed robbery.

Over 50 percent of the 20,000 homicides in 1974 were committed with handguns. Virtually every robbery involving a firearm takes place with a handgun. The percentage of violent crimes in which handguns are used is increasing. For the period 1962 to 1974, 73 percent of the weapons used in police murders were handguns. From the working papers of the National Commission on Reform of Federal Criminal laws, Professor Franklin Zimring explains why it is vital that we have a nationwide system for the control of firearms, particularly for hand-held firearms:

"In Massachusetts, where restrictive handgun licensing has been in effect for many years, a study showed that 87 percent of the firearms confiscated as a result of use in crime came from other States, and similar studies by the task force on firearms of the Eisenhower Commission show a similar pattern to be true in New York City, with restrictive handgun licensing, and Detroit, Michigan, with a permissive handgun licensing system and a geographic vulnerability to the inflow of weapons from Toledo, Ohio."

Under the system that I have proposed uniform standards of handgun control will be proscribed by the Federal Government. Each State will be governed by the minimum requirements for a registration and licensing system. With such a comprehensive and uniform system of controls of handguns, we can eliminate the controlled flow of handguns from State to State.

Massachusetts, New York and other communities with stringent controls will realize substantial improvements in their efforts to reduce handgun violence.

Handgun control has been a subject of serious study by expert panels that have probed the problem of gun violence in America. My proposal in the Handgun Control Act of 1975 was developed on the basis of recommendations made by five Commissions appointed by Presidents of the United States.

The President's Commission on Law Enforcement and Administration of Justice—1967; the National Advisory Commission on Civil Disorders—1968; the National Commission on the Causes and Prevention of Violence—1969; the National Commission on Reform of Federal Criminal Laws—1970; and, the National Advisory Commission on Criminal Justice Standards and Goals—1973.

Each of these expert panels thoroughly studied the gun problem in America and strongly urged the adoption of stringent controls to restrain the needless proliferation of handguns in our society.

From those studies, it has been consistently concluded that sportsmen, hunters and others who use guns for legitimate purposes, are not the source of the abuse of firearms. My handgun bill is designed to stem the flow of firearms to people who have no legitimate need to own gun. There is no intention in this legislation to burden the sportsman or the hunter in his recreational pursuit of gun ownership.

My bill seeks only to accomplish the goal of halting the unbridled flow of illegitimate handguns that are too often available to those who are bent on lawlessness.

#### WHY DOES ANYONE ARGUE AGAINST GUN CONTROL?

The arguments used to oppose gun controls are old and hackneyed. The same lament has been used in one of the following forms time and time again:

1. Gun control cannot limit the supply of guns enough to reduce violence.
2. The Constitution protects the citizen's right to bear arms.
3. There is no need to ban guns because guns are not killers; people do the killing.
4. Criminals will always find a way to obtain a gun. Thus, controls will only disarm those who obey the law.
5. Registration and licensing procedures are so cumbersome and inconvenient that they would create unfair burdens for legitimate gun owners.

Opponents of effective gun controls believe that these objections are firmly rooted in substance. But a thorough examination of each of these claims reveals that not one of them is well founded.

*First.*—Can laws limit the supply of guns enough to reduce violent crime?

Of course such laws, properly enforced, can reduce the availability of handguns. In 1968, when importers anticipated enactment of a new gun law, about 1.2 million handguns were rushed into the American market. Then in 1969, pistol and revolver imports fell to less than 350,000 and have not risen substantially above that total since then.

Today, nearly 3 million new handguns enter the American market because handgun parts are still legally imported and because U.S. manufacturers are still authorized to produce them. The legislation I am introducing would not only reduce the number of handguns assembled from imported parts; but it would also drastically curtail the output of domestically manufactured handguns.

In June 1934, President Roosevelt signed the National Firearms Act which outlawed civilian ownership of machine guns. Perhaps, it is the law that best illustrates the way in which legislation can effectively restrain the availability of firearms. Since enactment of that measure over 40 years ago, machine guns have been virtually eliminated from the civilian scene. Obviously that weapon has no legitimately useful place in a civilized society. Easily concealable pistols and revolvers are also out of place in today's highly urbanized and complex society.

Opponents of handgun control insist that it is impossible to prevent the criminal from obtaining a handgun. But, if the criminal has to steal a gun before he can use a gun, he will use a gun much less frequently.

I believe we can reduce the awesome rate of death, and injury caused by fire from pistols and revolvers. And I believe an effectively enforced ban on the output of these deadly devices is the most direct way to accomplish that goal.

*Second.*—it is claimed that the Second Amendment to the Constitution protects the citizen's right to bear arms. Anyone who believes "... the right to bear arms" is borne in the Constitution has conveniently ignored the language of the second amendment. For, the second amendment provides that "... a well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

The United States Supreme Court has repeatedly said that this amendment has nothing to do with the right to personal ownership of guns but only with the right of a State to establish a militia.

In its historic perspective, the purpose of the Second Amendment emerges clearly. Debates in the 1st and 2nd Congresses were naturally affected by the recently won independence of the new Government. And in Massachusetts it was bitterly recalled that the British Crown had quartered its troops but forbade the organization of a colonial militia. Reported congressional debates from those times support the view that the Second Amendment was designed to protect and preserve the State militias. No mention was made of any individual "right" to possess, carry or use arms and there is no indication of any concern with the need to do so. The new Government was much more interested in maintaining State militias to defend the hard won liberty. That fledgling Government feared the establishment of a Federal standing army as a threat to the basic authority of the several States.

Indeed, all but one of the 14 States of the Union in December 1791, when the Bill of Rights was ratified, had adopted a Constitution or a Declaration of Rights, under which their people were governed.

Rhode Island still operated under its Charter of 1663, which authorized the colony to organize a militia. But there was no mention of any "right" to bear arms.

Eight states—Delaware, New Jersey, Connecticut, Georgia, South Carolina, Maryland, New Hampshire and New York, operated under Constitutions that made no mention of any "right" to bear arms. Though each authorized a State militia.

Three states—Massachusetts, North Carolina and Virginia expressly recognized the right of the people to bear arms *for the defense of the State*.

Two states—Pennsylvania and Vermont—included language in their Constitutions which acknowledged that "... the people have a right to bear arms for the defense of themselves and the State . . ."

However, that sentence was included in a paragraph that was concerned with the prohibition against a standing Army and guarantee of civilian control of the militia.

Considering the history of this problem, reason defines the phrase "defense of themselves" as referring only to collective defense. That phrase did not include individual defense.

It appears therefore, that both the States and the Congress were preoccupied with the distrust of the standing armies and the importance of preserving State militias. It was in this context that the Second Amendment was written and it is in this context that it has been interpreted by the courts.

*Third.*—one other common refrain against firearm controls is that "guns don't kill, people do." This argument contends that people who use guns should be dealt with severely. But efforts to control the weapons are not necessary. Yet, a quick look at the statistics and common sense tell us that it is when guns are in hand, that two-thirds of the people who kill other people do so; and it was when guns were in hand that over 250,000 robberies were committed in 1973; and it was when guns were in hand that one quarter of the Nation's 400,000 aggravated assaults were committed in 1973.

Murder is usually committed in a moment of rage. Guns are quick and easy to use. They are also deadly accurate, and they are all too often readily accessible. Some estimate that there are over 35 million handguns in private ownership in this country. Each year, 2.5 million new handguns are introduced for civilian use into the marketplace. Because handguns are available people use them.

Rarely does an attacker make a deliberate choice of a gun over a knife. But because the fatality rate of knife wounds is about one-fifth that of gun wounds, it may be concluded that using a knife instead of a gun might cause 80 percent fewer deaths.

*Fourth.*—Others make the argument that because criminal have guns, gun control will simply disarm law abiding citizens. Lawless citizens, according to that argument, will feel unobliged to be bound by gun restrictions.

Perhaps there is something to that. And for that reason, I am convinced that gun restrictions can be effective in limiting the wholesale misuse of firearms. Strict gun restrictions will aid in disarming any who fails to register their weapons or obtain a license for ownership. Indeed, the enforcement of licensing and registration laws serves to isolate precisely those citizens who flaunt the law. For enactment of such legislation makes it a crime merely to possess an unregistered firearm. Commission of a crime with such a weapon compounds the wrong of any illegal act.

*Fifth.*—it may be the greatest number who protest gun controls do so on the basis that the administrative requirements for registration are cumbersome and inconvenient. Since 1969, the Congress has attempted several times to remove the recordkeeping requirements of the 1968 Gun Control Law, regarding sales of .22 caliber ammunition.

I have repeatedly objected to any move that would repeal provisions of the requirement to record sales of such ammunition. Between 6 billion and 7 billion rounds of ammunition are produced in this country each year. At least 85 percent of those bullets are .22 caliber records maintained to control the sales of ammunition may be useful in restricting access only to those gun owners who intend to use their weapons for legitimate purposes.

I believe that any measure we might adopt which will substantially reduce the misuse of firearms will at the same time, enhance whatever pleasures that may be derived from the so-called recreational pursuits of gun ownership.

If the only price of firearms recordkeeping requirements is the inconvenience to gun users then with my bill, the American people will have been delivered a special bargain.

#### GUNS IN OTHER COUNTRIES

Among the nations of the world, America stands in the bloodiest pool of deaths by gunfire. We are not only ranked number one, but number two lags so far behind that a tally of gun deaths in all civilized nations probably would not equal the excessive fusillade we train on our fellow citizens.

In 1973, the total gun murder rate in the United States was 6.2 per 100,000 population. And the handgun murder rate was 4.9. Thus, even the U.S. handgun murder rate was 62 times the rate in Scotland, the Netherlands and Great Britain and Japan, 31 times the rate in Denmark, France, Sweden and Switzerland and 20 times the rate in New Zealand, Germany and Italy.



From the following table showing gun deaths for 13 countries, it is clear that guns in America place our nation shamefully ahead:

TOTAL NUMBER AND RATE PER 100,000 POPULATION

Country (year is the latest for which figures are available)	Total homicide		Gun homicide	
	Number	Rate	Number	Rate
United States, 1973	19,510	7.5	11,249	6.2
Australia, 1970	190	1.5	71	.6
Denmark, 1971	48	1.0	12	.2
England and Wales, 1972	384	.8	41	.1
France, 1970	373	.7	124	.2
German Federal Republic, 1971	802	1.3	203	.3
Ireland, 1972	21	.7		
Italy, 1970	442	.8	239	.4
Japan, 1971	1,380	1.3	20	.0
Netherlands, 1972	72	.5	13	.1
New Zealand, 1971	25	.9	8	.3
Scotland, 1972	73	1.4	3	.1
Sweden, 1971	76	.9	19	.2
Switzerland, 1972	57	.9	12	.2

The United States is a glaring exception among the civilized societies that have acted to control guns. In Italy, West Germany, France, Britain and the Soviet Union, "the right to bear arms" is a strictly regulated privilege. In Japan, private gun ownership is all but prohibited. No less than five European countries totally prohibit the private possession of handguns. From a 1968 State Department survey of 102 of its diplomatic posts, results show that 29 European countries require either a license to carry a firearm or registration of the ownership or sale of each privately owned firearm or both.

#### CONGRESSIONAL ACTION ON A NATIONAL FIREARMS POLICY

Legislation to control the violence caused by firearms is essential in the national campaign to reduce handgun deaths. At the same time, public education and ongoing research in the relationship between firearms and violence is also vitally important.

The gun mystique fascinates and excites the imagination. Filmed stories, novels and dramatic presentations that depict gun violence are enjoyed and readily understood by all members of our society. The role of the handgun in American society has been clearly distorted. What is needed is a complete reform of the role of the handgun. It is clearly not a weapon of entertainment. And only rarely is it used for sporting purposes. Many Americans insist that a handgun provides desperately needed comfort and security in a menacing environment where assailants threaten the weak, the helpless and the lonely. Yet, the wide proliferation of handguns seems to revolve through a vicious cycle that sees more and more people who are buying guns to protect themselves from more and more people who have guns.

I am convinced that this national evil of handgun roulette must be interrupted, before the two-gun family becomes as common as the two-car family.

Many Americans are looking forward to hearings on gun control to be conducted by the Senate Subcommittee To Investigate Juvenile Delinquency. As a member of that committee, I intend to work vigorously for passage of this legislation which will be considered by that committee.

In addition, I am looking forward to a full review of the most effective ways to improve enforcement of the 1968 Gun Control Act. The provisions of that law need to be reviewed not only for improvement of its enforcement provisions, but also to determine whether other more far-reaching measures must be enacted.

Under the provisions of my bill, certain handguns will still be authorized for manufacture in the United States. To guard against the unbridled production of such weapons, it has been recommended by some experts that handgun production quotas must be imposed upon the Nation's firearms producers. Hopefully, that recommendation will be thoroughly probed to determine the most effective ways to accomplish that goal.

Finally, I am convinced that a majority of the American people want to see an end to gun crime. Based upon the studies from experts who understand the

causes of violence in this nation. I am pursuing enactment of legislation to drastically restrict access to hand held firearms. I believe that enactment and enforcement of adequate gun controls, can be achieved. And I look forward to working with my colleagues on this serious matter to obtain the legislative results that can be useful to the people of our country.

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[EXHIBIT No. 6]

[This statement was delivered by the father of Richard F. Ware, III, at his funeral, April 7, 1975. Richard Ware was slain shortly after noon on April 3, 1975, as he left his place of employment in Washington, D.C.]

This is a difficult time for me, my wife and my daughter-in-law, but we are determined that the irrational death of our son and husband shall serve ultimately some useful purpose. He was the victim of a time in our nation and in our city when hazardous occupations have expanded to include the formerly mundane one of working in a store.

My son was black. There is little doubt his slayer is black. In my youth, blacks were often lynched by whites; today blacks are frequently killed by blacks. It is ironic that as black men have more frequently called each other brother, there has been an increase in black killing black. Many believe this intra-racial conflict is playing into the hands of the remaining racists in our society and wonder why there has not been a more drastic effort to control the problem.

But was my son's murderer's hand alone on that fatal trigger? Was not the hand of Congress there as it tediously debates the pros and cons of gun control? Was the Mayor's hand there and the hand of the City Council as they fail to get the guns off our streets? Was my hand there . . . and yours as we fail to use the tools of a democracy that should allow the will of the people to be exercised? Or is this a democracy? Is the influence of those who gain from the production of guns and the sale of bullets more effective with our lawmakers than the majority of the voters?

Whatever we do now in this city will not bring back our son and husband to us. However, what we do here in Washington, D.C., and in this nation may save the life of your sons or daughter, your sister or brother, your father or mother, your life or mine. The threat of immediate attack upon our person is no longer from foreign shores but from within the heart of our own cities.

I seek no vengeance upon my son's killer. I am, however, fearful that what he has done, at least once, he may do again. I am fearful that he will not be apprehended. I am fearful that if he is apprehended, he will be returned to the community more bitter and more dangerous than before, secure in the belief that little will or can be done to him.

My wife and I have come to a simple conclusion. There is nothing more important in our city today than the safety of its citizens. Of what importance is it to my son, Richard, about the size and distribution of the city budget? What does he care about the squabbles over the Department of Human Resources? Does it matter to him how our schools are being run? Will these things matter to you if you lie there dead as he does now?

Let's put first things first. What's left of Richard's family who wants to live free of fear. Free to walk our streets without concern about who is in front of or behind us. Most of my friends don't want to go out after dark. Richard was killed shortly after noon. The terror is spreading from the dark to the daylight—from the streets to our homes.

All of this terror is caused by the man with the gun. We must fight him or die. The key to overcoming him is simple—take his gun. He is nothing without his gun. With it he sat in an omnipotent seat of judgment over my son's life. With it he can decide if we live or die.

We, the people, can take his gun through our elected leaders. At the next election, you the voters must focus on a simple, easily determined issue. What has this candidate done or what will he do to make secure our safety? All other issues can follow but they are not important if we are not alive.

Friends, join my wife, Richard's young widow, and me in Richard's memory and let our government know we have had enough! We want you and your friends and your neighbors to sign a petition to our local leadership that

they must get the guns off the streets. If that is not enough then we can use the ballot to fight the bullet.

In the next few days Barbara, my wife and I will have the text for a petition on which we hope you will help us get enough signatures to move the City Fathers to respond to our urgent demand. Moreover, we hope other families who suffered a similar loss will join us in this effort. Let's make it a city-wide project and raise such a hue and cry that we must be heard. These petitions will be distributed in your churches, clubs and unions. Let's use stores, banks and the streets to get the message across.

Friends, we, Richard's family have shed our tears, torn our hair, bear our breasts and rent our clothing. Now we are ready to act. Will you help us? Will you help yourselves?

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Senator KENNEDY. I am just wondering, Senator Hart, if you saw the news stories this morning in the Washington Post about the action that has been taken by the NRA on legislation again this year. I saw a report which indicated at least that they were going to be strongly opposed to any gun legislation at all and were going to go back to increasing mandatory penalties for gun legislation. Yet the issue of mandatory penalties is always questioned.

For example, in my own State of Massachusetts, a law just went into effect imposing a mandatory penalty of 1 year for gun crime convictions. And that law has been very sparsely used.

Based upon the article in the Washington Post this morning, I wonder if you feel that the NRA is up to its same old do-nothing attitude in pushing for mandatory sentencing instead of dealing with the real question of reducing the public's access to handguns?

Senator HART. Senator Kennedy, I came in from Michigan this morning. I have not had opportunity to read the Post, including the position of the NRA.

Senator BAYH. If you had read it the last time we held hearings, the story is remarkably similar. However, we will enter it in the record at this point.

[EXHIBIT NO. 7]

[From the Washington Post, Apr. 23, 1975]

#### NRA STAND ON CONTROLS REAFFIRMED

(By Robert Meyers)

SAN DIEGO, April 22.—The million-member National Rifle Association today reaffirmed its long-standing opposition to gun control laws and its support of stiff, mandatory penalties for the use of a gun in the commission of a crime.

The 75 directors of the 104-year-old organization issued the expected affirmation of policy on the fifth and final day of the NRA's annual convention.

"Gun control is a proven failure," newly elected president Merrill W. Wright said "We should rather invest in crime prevention, and keep criminals as far away from society as is humanely possible. The alternative is to put up bars on all windows and doors," he said.

Wright, a retired Massachusetts manufacturer, also opposed a proposal endorsed last Sunday by the U.S. Conference of Mayors that would ban the sale of pistol ammunition.

"That is a popular dodge which will not cure the crime problem," he said. "Ammunition is available outside this country, ammunition for long-barrel rifles can be used in handguns, and even a poor gunsmith can change a rifle into a sawed-off short weapon. The proposal won't work."

Wright said he also opposes a suggestion by Attorney General Edward H. Levi that handguns be banned from high-crime metropolitan districts.

"If you take away the so-called Saturday night specials (low-cost pistols), the crook will simply buy an expensive gun. If you stop the manufacture and sale of all guns to everyone, then criminals will simply start a black market in home-made guns," Wright said.



Jack J. Basil, Jr., who provides NRA information to Capitol Hill, said that of the 40 or so gun control bills before Congress, the recent Kennedy-Stevenson bill is "the worst."

Introduced on Thursday by Sens. Edward M. Kennedy (D-Mass.) and Adlai E. Stevenson III (D-Ill.), the bill would outlaw the manufacture, sale, or ownership of any handgun with a barrel less than five inches long.

Senator BAYH. Excuse me for interrupting.

Senator KENNEDY. That is fine.

#### PROBLEM'S CURE NOT MANDATORY SENTENCING

Senator HART. Well, on the business of mandatory sentencing as a way to cure this problem, I would put that discussion aside for a moment. Mandatory sentencing has not a blessed thing to do with the majority of these deaths from handguns. The deaths from handguns result not from some criminal running around with it in his pocket, but because I have it. I may have a license to keep, own, possess, move with, whatever; but as a consequence of the honest man having it, 6 or 7 out of every 10 deaths flow from the honest man's misuse, carelessness, mistake. A mandatory sentence is not going to do a blessed thing about that.

Now, as to mandatory sentencing, I have a hangup as to whether this has any deterrence on the bad man either, quite aside from the more basic question of whether we, as legislators, can anticipate every single circumstance before every judge in this country and disarm the judge of the exercise of discretion. You know, there are a lot of things we can talk about on that one, but the basic point I hope we remember is that we are confronted with a tool of death which produces more deaths because the tool is in decent hands than in indecent hands.

If in fact that is true, then decent people, which is the vast majority of the communities, should say, let us get rid of them. But until they understand that, the Post story will be the same year after year. Senator Kennedy's effort to move legislation will result in the same kind of brick wall.

The bill I have offered here, the first run around, we had a vote on it in 1972, and we got 7 votes in the Senate.

Senator KENNEDY. Well, you got one of mine.

Senator HART. That is the kind of brick wall we are talking about.

Senator KENNEDY. In this story—and I happen to be one up on you, Senator Hart, because it quotes Jack Basil who, it says, provides NRA information on Capitol Hill—it says, of the 40 or so gun control bills before the Congress, the Kennedy-Stevenson bill is the worst.

Senator HART. I do not even agree with that.

[General laughter]

Senator BAYH. Frankly I do not think the NRA will either when they get around to reading your bill. They would not like either one of them.

Senator KENNEDY. I would be interested in, if you would, Senator, in why you think it is so difficult to get action on this particular issue. I think all of us are aware that the overwhelming majority of

the American people are for, I think, reasonable and rational gun control legislation.

What is your assessment of the reason that we have not been able to act in the Congress and the Senate to respond to what clearly is an issue involving public safety and the well being of the American people?

Why have we in the Senate not been ready to act, and why do you think that the time is at hand when we may be able to act?

Do you have any opinions on that?

Senator HART. Why do we not act, and why do I think we may be ready to act?

#### HISTORIC BELIEFS AND COMMERCIAL INTERESTS

Well, it is a mixed collection of motives. I list first the, I would assume, rather general belief that a handgun—and I limit myself solely to handguns—is something that is of benefit to the law abiding person; therefore any proposition as sweeping as the bill I have introduced is greeted with an almost shocked surprise. You mean you are proposing to hurt the good people? That is one thing. We are all told that part of our tradition and culture is the good guys shooting it up in the West. I am told that we are misreading history on that, but I have never bothered to plow into it.

We talk about the virility symbol. It was a Greek history fellow. I do not know anything about that either.

There are commercial interests that have a deep concern that they not be prevented from producing that which they believe to be, and is thus far, a legitimate product. So they understandably come down and seek to persuade us not to do anything that would reduce their production. The sportsman, the hunters in this country, with some exceptions, have the feeling that any proposal, Kennedy-Stevenson, Birch Bayh, Hart, any of them, even though we insist that they do not reach, and in fact they do not reach, the hunting rifle or shotgun, is viewed as an opening, the first step down the road of outlawing all guns, so they resist strenuously even these limited proposals.

#### PROGRESSIVE THINKING AND ANTILOBBY ACTIVITY

Why do I think the time has come when we may be making progress? The hope that the combination of the things we have to deny ourselves as a people, even though we are in a free society, such as the restrictions on our freedom to walk in our neighborhood, will combine with a willingness to listen to those who make the case that one of the reasons you are afraid is that there is this vast reservoir of handguns floating around. So we are better off to get rid of it, so the State will take the first step to get rid of it.

I am encouraged, specifically, by the organization just a few months ago of the National Council for Control of Handguns headquartered here in Washington. It is that kind of citizen activity to counter the commercial lobby that opposes this legislation that leads me to think that we will go where logic tells us we have to go. Let us just accept the proposition that these tools are unacceptable in the kind of communities in which we must live.

Senator KENNEDY. Just a final couple of questions.

Why not, if Detroit has a problem, why does Detroit not handle it? Why burden Pittsfield, Mass., with Detroit's problem?

Senator HART. The reason that the Saturday Night Special got such currency, originated in Detroit. Detroit is a near neighbor of Toledo, Ohio, and it was come one, come all, in Toledo, any size, any shape gun; and Detroit was attempting some very rigid limitations with respect to purchase and with respect to carrying. So on Saturday nights you would go to Toledo. That is where the Saturday Night Special began. That is why you can not deal with this as a local issue.

Senator KENNEDY. We have have 85 percent of the guns that are involved in crimes in Massachusetts brought in from outside the State.

#### ACT PROHIBITED EXCEPT FOR SPORTING PURPOSES

Finally, as you remember the 1968 act, we prohibited the importation of foreign firearms, except for sporting purposes. Now we find that in carrying through the mandate that they developed regulations which would give various points for different parts of a weapon, as I understand it. So if you could drop the weapon and it does not go off, you get so many points. If it is made of a high grade kind of steel you get so many points. As a result, although I cannot see it here, as I understand it you have an enormous growth of weapons that meet the point system in terms of the regulations which have been established by the Treasury and quite clearly run completely contrary to the letter and the spirit of the legislation that says that it is only going to be a sporting weapon. It would seem to me that the administration could take action, if it was seriously interested both in compliance with the law as well as doing something in terms of getting some kind of handle on the importation of weapons whose primary purpose is for killing human beings.

I understand there is one here, in terms of importation, that has got a barrel length of about 3 inches. Now quite clearly that could not even be used for any kind of sporting purpose.

Would you think that in your general concern for the issue of handgun control, that that aspect of the regulations ought to be reviewed by the administration and made to comply with the spirit and the letter of the law?

Senator HART. Surely.

But I look at those weapons, and if there was a 7-inch gun up there I would feel the same. I look at every one of those and wonder whether you die deader because you get shot with the longer one or the shorter one. But what difference does it make? Who can look at that pattern and put a so-called sporting pistol up there? I would suggest you would have the same impression. What difference does it make? Are you better off to die at the hands of a very expensive handgun? Is there something advantageous to that—or one that will not melt as fast as another one? It is like trying to say that cyanide is better in the half-ounce bottle, than it is in the ounce-and-a-half bottle. The answer is, do not let them have the cyanide.



Senator KENNEDY. I want to thank you, Senator Hart, for both the leadership you are providing in the introduction of the legislation and for very convincing testimony.

You were commenting about open and closed minds, and I have one, too.

Senator BAYH. Closed or open?

[General laughter.]

Senator HART. This is going to be a very useful set of hearings.

Senator BAYH. I hope we can call on you to preside over some of them.

Senator HRUSKA, do you have any comments?

Senator HRUSKA. Yes; I just have a few questions at this time.

First, I would like to incorporate into the record by leave, an opening statement in which I lay some foundation for the general problem.

[The prepared statement follows.]

#### PREPARED STATEMENT OF SENATOR ROMAN L. HRUSKA

Mr. Chairman, it is with a great sense of "deja vu" that I approach these hearings to explore additional efforts to curtail the illegal use of firearms in the United States. As the Chairman well knows, extensive debate, hearings and investigation of this serious problem has been made by the Congress on several occasions during the past decade. As far back as August 1966, when we were engaged in hearings on the Gun Control Act of 1968, this Senator stated:

"The goal of keeping guns out of the hands of the wrong persons—those who misuse them—is easy to state, but very difficult to achieve."

I cannot today, Mr. Chairman, restate my general position on this subject in better words. It is a difficult problem, and I applaud the Chairman's continued interest in it and his persistence in trying to find a solution upon which the Congress may pass judgment.

Mr. Chairman, I do not intend to review the facts concerning the rising tide of crime and violence in this country. Firearms violence is a continuing and growing cause of concern. The Senator from Indiana, as well as others in the Congress, have brought these facts to light on numerous occasions.

So too, has the Attorney General of the United States, in his recent address of April 6, 1975, when he expressed his views on the controversial issue of gun control. The Attorney General recited with great specificity the rise in violent crimes and its relationship to the availability of handguns. That is fine. It was a statement of the problem—an offering of various proposals for handgun control—but was it really a realistic and practical approach to the problem?

Let me state for the record that portion of the Attorney General's remarks which I believe summarizes the problems surrounding present discussion and concern about gun control and its relationship to crime in the United States:

"While the 1968 Federal law has made it difficult for anyone to purchase a cheap imported handgun, it has not prevented anyone from buying a similar weapon manufactured or assembled within the United States. A person who lives in a city that has a law prohibiting him from buying a handgun need only travel a short distance—often only across the street into a suburb—to purchase a weapon legally. The Federal law requires licensed gun dealers to keep records of purchasers of handguns, but it does not require the same of individuals who sell or transfer weapons but don't make a business of it. Consequently there are no universal records of gun ownership. That makes Federal prosecution difficult.

"And it hampers efforts to trace the origin of weapons used in crime. In State and municipal courts, the crushing burden of other criminal cases leads prosecutors and judges to give low priority to the proper adjudication of gun law violations. Finally, judges often hesitate to impose criminal sanctions on people whose only offense is carrying a weapon for self-protection."

The thrust of this statement is, in effect, that the present law, title I of the Gun Control Act of 1968 (P.L. 90-618), is ineffective in the control of handguns in this country. That, Mr. Chairman, simply stated, is the issue presented by the Attorney General, and I would submit, now before this Subcommittee.

#### EXAMINATION OF ATTORNEY GENERAL'S MAJOR POINTS

Therefore, I think it would be worthwhile to examine in detail the major points made by Attorney General Levi in his recent remarks regarding the effectiveness of the present law on the control of handguns. First, the matter of the availability of handguns.

According to statistics provided by the Bureau of Alcohol, Tobacco and Firearms, (BATF), U.S. Department of the Treasury, there are nearly 40 million guns in private ownership, of which 2 million are manufactured and sold domestically, 400,000 are imported, 5,000 stolen in interstate thefts, and 350,000 or more lost, seized, destroyed or disappear due to private thefts. This number of handguns includes the expensive handgun, as well as the cheap, poor-quality handgun, commonly known as the "Saturday Night Special."

What percentage of these guns fall into the latter category? No one knows. Previous legislation to control handguns, S. 2507, which passed the Senate in 1972, but not in the House, applied "the sporting purposes test," which had as its intent, a ban on the importation of gun parts and handguns which received the label of "Saturday Night Specials." On this point, the Attorney General observed quite accurately that:

"... 'Saturday Night Specials' are not the only weapons on the street, and a ban on their manufacture and sale would not eliminate the threat caused by existing handguns—cheap or expensive: 'Saturday Night Specials' proposals do not discriminate between areas of the country where the need for control is greatest and the vast areas where handguns pose less of a threat."

The 1968 Gun Control Act contains a provision, section 5844, restricting the importation of handguns which failed to meet regulatory standards set by the Secretary of the Treasury. This was an attempt to close the loophole of shipment of small, cheaply-made foreign handguns into the country which were known as "Saturday Night Specials." But it did not work.

As previous testimony before this Subcommittee has shown, the enactment of this prohibition on foreign imports of cheap guns served only to create a mushrooming "Saturday Night Special" industry within this country. Likewise, further legislation to prohibit such sales domestically would do nothing to stop private resales and transfers of similar handguns already at large. In addition, even with adequate enforcement, it would do nothing to control the production, sale and possession of the millions of other handguns which are more expensive, but still used for illegal acts.

I am in favor of banning the "Saturday Night Special." They are of poor construction and low quality. They are dangerous, not only to intended targets and innocent bystanders, but also to the user himself. They misfire, fire accidentally, and have a reputation for being extremely inaccurate at even close range. There is no valid reason for the ownership of such a handgun, it has absolutely no sporting value and as the President's Commission on Law Enforcement and Administration of Justice pointed out in 1967, "It is appropriate to ban absolutely the sale of these weapons no citizen has a justifiable reason for owning."

#### POSSIBLE SOLUTIONS TO IMPROVE ENFORCEMENT

So what is the response to the number and availability of illegal handguns in the United States? One answer may be to initiate a strengthening of the licensing procedures and requirements for gun dealers. For example, the addition of a provision tightening the law relating to the requirements necessary to receive a "license" to sell firearms or ammunition at wholesale or retail and provide a license pursuant to the provisions of Chapter 44 of title 18, United States Code, may improve enforcement of gun sales.

A related possibility would be to require a statement of financial condition from a gun dealer who applies for a license. There could be requirements to determine his business contacts, his proposed volume of sales; in effect, a

"bona fide" businessman's test. This approach is taken in other fields of commerce, such as distilled spirit dealers, drugs and medical supplies, and the manufacturers of items for military and intelligence use by the U.S. Government. Such a test for a license could ease considerably the enforcement of problems of the Federal Government.

In that regard, it is significant to note the extent of the problem of firearms licensing and enforcement. In 1974, there were nearly 160,000 applications received by the Treasury Department for either renewal or original processing. Of that number, nearly all, 156,443 were issued, and only 1,500 were denied. Only 17 were revoked. This means that each and every one of these license application renewals, or original requests only met minimum standards under Treasury Regulations.

That, too, is relative to the amount of regulation and enforcement available for that purpose by the BATF. The following tables show the number of firearms application and compliance investigations made by the BATF in the past 5 years and the man days devoted to that task; and if there is no objection, I would ask to have them included in the hearing record.

Contemplate, if you will, the fact that of the nearly 160,000 applications in 1974 for licenses to sell, import or manufacture firearms, only 27,483 were investigated for approval and 15,751 were investigated for compliance with existing law and regulations. Director Davis, current head of the BATF, recently testified on this point before the Senate Subcommittee on Treasury, Post Office and Civil Service Appropriations.

#### HRUSKA APPROACH TO HANDGUN REGULATION

Not only are the "bona fides" of the gun dealer an important aspect of effective enforcement, but so too are those of the purchaser. Title II of the 1968 Gun Control Act contained a provision (Section 922(c)), was an amendment offered by this Senator to regulate intrastate mail-order sales of guns not otherwise prohibited by law.

Under this provision, the individual buyer must submit to the seller a sworn statement attesting to his competence to purchase the firearm and reciting the essential facts of the transaction. The dealer must then submit a copy of the statement to the buyer's local law enforcement official. After a wait of 1 week, and hearing no objection that the transaction would be in violation of applicable Federal, State, or local law, the dealer may complete the transaction.

By addition of the affidavit procedure, more effective control and regulation of these sales is possible. Local police are given timely notice of an intended sale and opportunity to make a check. The dealer, if in compliance with the simple requirements of the procedure, is fully protected from Federal criminal liability. The buyer, on the other hand, retains his ability to purchase firearms from a variety of sources within the state.

This presale and notice procedure reflects the regulatory approach long advocated by this Senator, and I believe, still provides an effective method of enforcing the sale of firearms in this country. Other proposals may include limiting the number of handguns purchased and increasing the capacity of the Treasury Department to trace the sale and transfer of firearms. In short, in the light of the experience we now have in these areas of enforcement by the Federal Government under present law, I think we can perhaps agree that adequate methods are available, what is needed is their stricter application.

#### ENFORCEMENT BY JUDICIARY

In addition to Mr. Davis's testimony on manpower shortages and beleaguered enforcement capabilities, is the related problem of enforcement by the judicial branch of government. Attorney General Levi's statement that "the crushing burden of other criminal cases leads prosecutors and judges to give low priority to the proper adjudication of gun law violations" is documented in several studies where considerably strict firearm laws are on the books.

For example, in a study compiled from computerized court reports in the City of Philadelphia, the following pattern of disposition of weapons offenses was shown:



## PHILADELPHIA WEAPONS OFFENSES DISPOSITIONS (INFORMATION FROM COMPUTERIZED COURT REPORTS)

	1970	1971	
	Criminal court	Criminal court	Municipal court
Total weapons offenses <sup>1</sup> .....	1,045	778	1,919
Held for grand jury .....			619
Total .....			1,300
Total defendants acquitted .....	525	352	816
Dismissed without trial .....	198	135	513
By waiver of trial .....	325	214	297
By trial .....	2	3	6
Guilty .....	520	426	484
Total guilty of lesser offenses .....	44	35	146
Total guilty as charged .....	476	391	338
Guilty plea .....	180	182	61
Waived trial .....	338	242	415
Jury trial .....	2	2	
Sentences: .....			
State prison (2 yr maximum) .....	1	11	17
County prison (less than 2 yr) .....	98	64	50
Probation .....	277	263	242
Suspended sentence .....	81	53	39
Fines .....	63	35	136

<sup>1</sup> Most are for carrying dangerous weapons and most of these are handguns.

As the chart shows, of the 1,300 cases in court in weapons offenses, 63 percent ended in acquittal and 37 percent in guilty. Of the 63 percent, 40 percent were dismissed as no trial.

Now these figures are based on court reports, not police reports of arrests for violations of the firearms laws. Thus, you can assume there were cases where an arrest was made, but because of the discretion of the prosecutor, no charges were not entered. This is also based on the fact that most weapons charges are not made solely on the basis of someone committing a weapons offense, but because the firearm was used in connection with the commission of a separate crime.

## HOUSTON AS A GOOD EXAMPLE

Another example which points out that gun laws can be enforced is the city of Houston, Texas. In 1973, there were 1,563 firearm cases filed, resulting in 1,430 convictions, of which 17 resulted in probation. This, I must note, is the exception rather than the rule. Moreover, these were not convictions of firearm violations in connection with a separate criminal act. These were solely convictions based on the illegal possession of firearms.

The results in Houston were based on (1) a strict possession of firearms law, and (2) a district attorney's attitude on handguns. He does not tolerate probation in these cases and he does not plea bargain. This results in a significant decrease in having to try handgun cases since those in violation of the law know the consequences—some time in jail.

The Attorney General has also suggested that we ban the so-called "Saturday Night Specials." In addition to an effective test to define the character and nature of these handguns, it is also proposed that a system of graduated taxes be applied to the price of handgun. But is this practical? Is it enforceable? I believe this suggestion has merit, but clearly needs to be studied further in light of the questions I just raised.

The Attorney General's speech also stressed the need for gun control in certain areas of the United States. Specifically, the Standard Metropolitan Statistical Areas (SMSA) of 62 American cities were targeted for treatment through a formula which would apply an absolute ban on the possession of *all* handguns in areas where the violent crime rate has reached critical levels. Any owner of a handgun within such a critical crime area would be required to obtain a special permit for a limited duration.

The mechanism proposed to trigger the imposition of these controls would be set either by a local violent crime rate significantly higher than the national average or by a high local violent crime rate coupled to the increase of local crime over the course of a year. Specific percentages were mentioned in the Attorney General's speech, but I will defer to the Attorney General for a more detailed explanation of this feature of his proposal.

# USE OF UNIFORM CRIME REPORTS AND POLICE DISCRETION IN DETERMINING CRIME RATES

One aspect of the Attorney General's proposal which merits special attention is the use of crime statistics to determine the triggering mechanism of the enforcement provisions. There are problems with the current Uniform Crime Reporting Program of the Federal Bureau of Investigation. The Bureau itself recognized these shortcomings in its Foreword to the Uniform Crime Reports for 1973:

"The Uniform Crime Reporting Program was initiated in 1930 by the law enforcement community to better identify the crime problem. In order to develop a national Program which would be practical and meaningful, certain standards and procedures were established. At the inception of the Program the impossibility of identifying the occurrence of every criminal act was recognized; therefore, the Uniform Crime Reporting Program is based upon those criminal acts which actually come to the attention of law enforcement either through information received from citizens or through the observations of law enforcement officers . . .

"Recently the Law Enforcement Assistance Administration and the Bureau of Census embarked upon a victimization survey in certain cities throughout the United States. This was the first concentrated national effort ever made in this country to measure the volume of unreported crime—the number of criminal acts which do not come to the attention of law enforcement. This first effort furnished some valuable information as to why members of our society do not report certain criminal acts to law enforcement authorities. These reasons will be closely reviewed by law enforcement agencies in an effort to resolve the impediments which may exist as to the reporting of crime. Law enforcement administrators accordingly have a substantial challenge to develop methods through which the total volume of unreported crime can be reduced. These first efforts in connection with victimization studies have encountered problems. However, one by one the problem areas will be resolved and these studies will undoubtedly develop more useful information relating to the causes and nature of crime."

## Federal Bureau of Investigation.

Furthermore, much of the crime data reported to the FBI is left to the determination of the local police departments. For example, certain crimes may be identified as an "aggravated assault" or perhaps only "simple assault", based on the discretion of the policeman in the station house. Most police officers "call them as they see them", but the difference can be significant when the officer is aware that a criminal act may be a Federal offense if identified one way, or simply a State or local offense if identified otherwise.

This factor of "administrative discretion" by police at the reporting level could alter considerably the crimes designated as Part I offenses. Thus, a simple assault is now considered a Part II offense, while aggravated assault is a Part I offense and used to determine the violent crime index, or those offenses which are generally crimes against persons and which frequently involve the use of a firearm. Since this index would be utilized under the Attorney General's proposal, it may well be worthwhile to reconsider this particular aspect of it.

As my long record in this area will clearly show, I have supported the development of appropriate legislation to restrict the availability of the "Saturday Night Special." I include myself among all reasonable men who want to keep firearms out of the hands of criminals. If legislation which specifically restricts the use, manufacture, and sale of small, cheaply made handguns could be drafted, I could and most certainly would support it.

I feel compelled, however, to make a few observations about the thrust of the Attorney General's approach to gun control. I do so not in criticism, but in a constructive fashion. I foresee problems, as I am sure do others, who have examined this particular proposal.

First, how would this crime index mechanism be enforced? Would it require additional Federal legislation? Who would enforce it? If the answer is more Federal legislation, enforced by Federal law enforcement agencies, then I must register serious reservations about its practicality and feasibility.

For example, if a metropolitan area were designated as a critical one under whatever formula may be in effect, and Federal agents were sent in to enforce the law, would State and local laws be suspended? Would Federal, State, and

local law be enforced concurrently? If a multiple count charge were made including violation of the Federal firearm possession law and a violation of a State law, would there be a bifurcated proceeding? Who would have original jurisdiction, the Federal district court or a local forum? These are but a few of the questions that I believe are raised by this proposal, but to date, not answered.

I would also inquire as to the situation presented by an important fact I stressed earlier—the limited resources of Federal enforcement agencies. If we cannot presently enforce the laws on the books effectively and with sufficient convictions to establish a deterrent effect on firearms law violations, then it seems futile, if not wishful, to expect hard results from this proposal. The addition of one more layer of Federal law, of regulatory provisions, and further demands on our already thinly-stretched illegal gun enforcement capabilities, cannot help the present situation, it can only worsen it.

#### SUMMARY OF HRUSKA VIEWS ON GUN LEGISLATION

Mr. Chairman, I would like to summarize with the following points which generally state my well-known position on the question of federal gun legislation:

1. A uniform nationwide law would not be acceptable or workable. Uses and needs for guns differ vastly in each State. It is for elected representatives of each State to prescribe the rules as to how guns should be kept away from those who misuse them; and to provide and enable continued use by law-abiding citizens who own them for proper, necessary useful and beneficial purposes.

2. More than mere passage of a law is involved. Enforcement is needed. The Federal Government is not equipped for the task. It would require a nationwide peace officer army of giant size which the Federal Government does not have and should not have. Law enforcement of this kind (and by far of most kinds) is and must remain the responsibility of State and local authorities. This is a must for an effective job. It is a must under our system and arrangement of American government.

3. Populous States and metropolitan areas with problems of misuse of guns including so-called "Saturday Night Specials" should go about a solution in their own way with the help of Federal laws on the books to control interstate shipments and retail sales. But I would resist firmly any attempt to impose a cast-iron approach for Federal control that would affect States and localities with totally different circumstances and needs.

I look forward, however, to the testimony of the witnesses today, and hearing their views on this complex and difficult subject.

Senator HRUSKA. I reserve for the future time to discuss the merits of the position taken by Senator Hart in his bill that he has introduced, which would ban private ownership of handguns.

There are a few questions I would like to ask Senator Hart.

We are aware, of course, of the latest attempt to approve in the Senate a bill which you are now proposing and on which you testified, of which there were only 7 votes for it and 84 against it. It would be difficult, would it not, to envision that there would be a reversal of that sentiment, which is pretty well set among the members of the Senate?

Senator HART. Yes; I think you are correct.

Senator HRUSKA. Is that demonstrated not only in that vote, but also a bill we had in Congress which made it a felony with an added sentence if it were accompanied by possession of a gun during the commission of that felony. It was passed in the Senate but was not acted on in the House. Why is this attitude—you answered in part—not politically acceptable on a national basis?

You have answered in part, but could you elaborate on it a little more?

Senator HART. No; Senator Hruska, I cannot. It is just, for one who feels as I do, one of those items you list when people say, does



anything frustrate you. Well sure, this frustrates me. To me it seems clear that this should be our position. But there is nothing clearer than a rollcall that picks up only seven votes. I am not among those who say that it is just fear of political reprisal, although there is a healthy chunk of that involved. I caught myself a recall campaign after this.

But it goes beyond that. I do not know what the answer is.

Senator HRUSKA. Among the statistics most commonly cited is that there are nearly 2 million handguns manufactured every year, and the number of murders, homicides, or shootings by handguns is near 10,000 a year. I think Attorney General Levi mentioned that in his recent speech. What is it—about 10,000 a year? Do you recall?

Senator HART. I am told it is about that.

Senator HRUSKA. Who is it that buys these 2 million handguns each year? Is it limited to hoodlums and criminals?

Senator HART. No, indeed. It is contributed to very importantly by people who think they are buying some security, good people.

Getting back to your question, why do we not turn ourselves around and do what I suggested to do, and what is inhibiting Congress—I suppose it is because we are typical. We in Congress are typical of the broad community. We continue to think, as do those buyers, a big bulk of those 2 million, that if I have a gun, I am advantaged over the dishonest criminal fellow. Sure, I do not know what the percentage is between buyers who are decent, honorable citizens and those who are bad. But an awful lot of people believe that they are safer because they have the handgun. Maybe the reason our rollcalls around here are as such is because a majority of us continue to believe that.

#### HANDGUNS—TOOLS FOR ACCIDENTAL DEATHS

My point is that 6 or 7 out of every 10 handgun killings is through the use of the handgun that I have bought, and at my hands, or my children's, is in accidents. For a moment, if that tool of death is available and handy, good people are bad people, for just that moment, and the result is the tragedy that we talk about.

Senator HRUSKA. You suggest that we would be better off if we could eliminate all firearms. Can we? New York has had a law that makes it illegal to own a handgun without a permit. It has been on the books over 60 years. Every year there are some 8,000 to 10,000 guns picked up on the streets in New York. What promise does any law preventing private ownership have in view of the experience of many cities, including your own Detroit, Mich. We have a tough gun law in Michigan and in New York. Why can it not be enforced? New York has 32,000 policemen. Why can it not be enforced?

Senator HART. For a number of reasons, and we have mentioned one—because they buy it in South Carolina and bring it back. You are violating the law but it is there. There are a large number of lawfully present handguns in New York and Detroit. People do go in, assert legitimate reasons for the possession, and have them. I would not anticipate the day when one could say that all handguns have been removed from private hands in this country. But the fact

that New York has a tough penalty, and there are still an awful lot of handguns, does not prove to me that we could not, if we would, say nationally that there be no private possession of handguns and to turn them in—that would be the first step in reducing the total, because most people are law abiding. Most people would turn their handguns in.

Therefore you reduce the source from which the bad guy gets his gun, and every time a man or a woman is seen with a handgun, a private individual, unlike today in New York, you would know that there was a law violation and you could move. Eventually you would reduce enormously the number in private hands. Whether at the end of 100 years of this you would eliminate all handguns, I have no idea.

Senator HRUSKA. You suggest that you could go to Toledo from Detroit, or to South Carolina from New York or Massachusetts, to purchase a handgun. But there is a law against that. That is against a Federal law.

Now what the proponents of Federal gun control, like yourself, propose, is another law making it illegal. I cannot quite understand the rationale of that. It is already illegal. It is illegal for those 2,000 people in South Carolina who either have arrest records or who have had convictions. It is against the law. It is also against the law to own an unlicensed gun in New York.

#### LAW HAS NO REAL SUPERVISORY AGENCY

Senator HART. I know it. I think that in subsequent days the subcommittee will listen to men and women in law enforcement roles in places like Detroit, Toledo, New York, and South Carolina. You say it is against the law; but in most cases all you do is fill out a slip, and I suppose the hardware merchant or the hock shop does not simply keep it in his file. He sends it to some place. But there is no real overriding supervisory agency.

Senator HRUSKA. I am aware of that.

Senator HART. Because there is no reach beyond South Carolina. If they wanted to try it, they still could not insure that North Carolina would do it, or that Toledo would do it. In South Carolina you mentioned the law that would prohibit this. Of the 2,000 that bought guns down there, in one town in South Carolina, according to the Alcohol and Tax Report, more than 200 had prior arrest records, and 73 prior felony convictions.

Now you say that proves that a national law would not be useful in reducing the number of handguns. You must assume, to take that position, that you, a decent person, if you owned a handgun and the Federal Government said turn it in, would not turn it in.

Senator HRUSKA. The decent people would.

Senator HART. Yes, sure they would. And most of us, we tell each other, are decent. So it follows that most handguns would be turned in. Therefore you start with the No. 1 source of the badman's handgun, and that is your gun and mine. That itself would be progress, would it not; plus the fact that the danger the handgun poses to you and to me—we will agree that we are decent people—is removed by the Federal requirement that I turn it in. I repeat, the principal source of the handgun slaughter is not strangers, the felon that gets

it in South Carolina—it is the gun in my drawer. The noise in the backyard. It is dark. Out I go and I discover I have shot my neighbor who has lost his key. Or, my child finds the gun in the drawer and I find my child dead. That is what we are talking about being able to eliminate.

Senator HRUSKA. I do not intend to let you get off too easily on that South Carolina question because that is against a Federal law, for an individual to buy a gun there and transport it across State lines. It is against Federal law for a licensed dealer to sell it to anyone he has reason to know or believe is a nonresident.

Now there is a law and it is not enforced. Why is it not enforced? Why does it not do any good? Until you answer those questions, I must ask what, if you pass another law making it illegal to have a gun, makes you believe that such a law will be enforced?

#### ILLEGAL GUN SECONDARY CAUSE OF FIREARMS DEATHS

Senator HART. You may not want to let me off the hook on South Carolina, but I do not care whether you keep me on it, because I think that is the secondary cause of death from firearms. We can argue, if you will, but the forms in South Carolina, I am told, are not sent any place. It sound like that has very little followup. For purposes of this discussion, I will concede that not all bad men will ever be disarmed solely by the passage of a law that would prohibit private gun ownership, but eventually, he will find it darn hard to keep his firearm.

Leave me on the South Carolina hook, but I would like to get you on the national hook. The proposition that if honest people obey the law, and we operate on that principle with reason, vast numbers of handguns will be turned in, and for every handgun thus turned in, we are reducing death by handgun, and that is good and that is enforceable. Just because we are a decent people we will turn the gun in if we are told to.

Senator HRUSKA. Except for accidents which do happen, and far too often, and they are tragic to those decent people, those are not the guns that are used by people who abuse them, are they?

Senator HART. Yes.

Senator HRUSKA. How do they abuse them?

Senator HART. By being subject to robbery and burglary. Before you came in, I sought to remind us that the bad guy does not go to Abercrombie for his guns. He looks in my bureau drawer, or he finds it in a hock shop. The source from which most of these illegal people are armed is us good people; we are the source of the thing.

Senator HRUSKA. Well, we will have to continue that discussion at a greater length and, perhaps, maybe, some other people can explain the mystery of why a law that is so simple and so plain is not enforced. Now, in New York they have a law—

Senator HART. Senator, let me ask this. Would you agree that a law so simple and so plain “as turn your handgun in” would produce results? Would not that produce good results too?

Senator HRUSKA. Well, it does not work now. New York has a law. It bans and makes illegal the ownership of a gun. Now, why does it not work?



Senator HART. We are not listening to each other. There is no law that compels me in New York—it does not say you may not own a handgun.

Senator HRUSKA. Yes, it does.

Senator HART. All right.

Senator HRUSKA. For all practical purposes——

Senator HART. All right, there are only about 30,000 or 40,000 bad people. Is that the only number that have guns there?

Senator HRUSKA. There are estimates in the New York Times, and no one would doubt the New York Times; they are very authoritative, very solid in their statistical——

[General laughter.]

Senator BAYH. Would the Senator yield? Are you certain you want that played back to you next time?

Senator HRUSKA. I do, and in the same tone of voice that I use for it now, and I do not say that in a derogatory way; but the New York Times has for years contended that the estimated number of guns in New York is approximately 1 million. Tim Murphy and Mayor Lindsey, when they appeared before this subcommittee several years ago, testified to that fact.

Senator HART. I do not know what the population is in New York, but it is under Tokyo's, nearly 4 million less than Tokyo's, and the law in Tokyo says you will not have any, and apparently it works.

Now, should we hire some outside agency to tell us why it works in one place and not in another? But, my underlying repeated theme is, I do not accept the proposition that if the Federal Government told you and me, you may not have a handgun, that we would not turn it in. I believe we would, and I say that every time we do it, we are improving, if you will, the quality of life by at least reducing the number of killings.

#### ILLEGAL HANDGUNS IN NEW YORK CITY

Senator HRUSKA. You do not have to, you can stick to that belief if you wish, but there are 1 million handguns in New York that disprove it, and it is not only illegal to have the gun, it is illegal to have it without registering it. That is a State law. If it is owned, without a permit, and the latest figures I recall are that there were about 25,000 guns registered in a city of several million, it is illegal.

Now, you can say, perhaps with a Federal law you are going to have compliance with it. It is disproved, of course, by the great numbers of guns in areas where there are laws forbidding them in private homes.

Let me ask you this, we recently had a National Commission on Criminal Justice Standards and Goals. It made a recommendation for a program which was far different from yours which confined gun control to State, rather than Federal law. I am sure you are familiar with the general thrust of the report. If you are not, perhaps, you would like to familiarize yourself with it, and submit a memorandum of your comments on it.

Senator HART. If their suggestion is that you should leave to the States the resolution of the extent to which handguns may circulate, I do not know how near Omaha is to a boundary, but I know it happens in Detroit, and I say the idea does not work.

Senator HRUSKA. Well, if you have any further comments on the recommendation of that very splendidly balanced commission of law enforcement officers, citizens, lawyers, prosecutors, judges, chiefs of police, and others, we could go into that in more detail later in these hearings.

Would you make any allowance, Senator Hart, for areas where a gun is necessary for self protection? I can think of remote areas out in Nebraska, in the sandhills and the desert country, the mountain country, the prairie country, and say in Alaska, for example, where I doubt very, very much that a new law is going to deter the minds and hearts of those with criminal intent from illegally using a gun. They are going to have a gun, and we will have posted on every house in those places, the invitation "this house has no gun"—so they walk in with their gun and they are master of the situation.

What allowance would you make for that?

Senator HART. I thought your question was going to be, do I make allowance for areas of the country where you need the weapon, and the answer is yes, of course. You are talking about the honest person; the fellow out on the prairies is not disarmed of his rifle or the shotgun, or in Alaska either, by this bill. Why do you need a handgun instead of a shotgun or a rifle? What is the problem on the prairie?

Senator HRUSKA. Perhaps you may wish to visit there and talk to the people who live there.

Senator HART. I would be curious to have an explanation about why my prairie problem cannot be handled with a rifle, my honest problem.

#### USAGE OF HANDGUN IN HOME PROTECTION

Senator BAYH. Would the Senator yield?

I think the question is a good one. And I say, without bragging, because it has been my responsibility, I suppose I have listened to more witnesses and more hours of testimony than anybody else in the Congress on this issue of firearms. I listen to all of the misconceptions and the very tense feelings on all sides. One thing we need to recognize is that the record does show that if a criminal comes into our house and you and I and our families are upstairs asleep, and our respective spouses say, Roman, Birch, wake up, there is somebody prowling around downstairs, that we are subjecting ourselves—if we reach over in the bureau drawer or the night table drawer for a hand weapon; that the time it takes to get the foggi-ness out of our minds is less than it would if we went to the gun cabinet where we could get up and actually have access to another weapon. The police officers tell me—I am not an expert on this, and I hear all of the arguments on the other side—that when you have immediate access to a small weapon you really are not nearly as much in control of what you are doing with it as that fellow on the other end—prowling around downstairs who is wide awake and probably knows how to use a weapon.

So, I think there is a question about the ability to defend oneself being significantly greater if you have a different kind of weapon than one that is readily available. Excuse me, I do not want to interrupt this dialog.

Senator HRUSKA. That is a good thought that you advance, and I value it, but you know there is a rebuttal to it. Every year, 2 million citizens in this country do not agree with the policeman that says you are going to fumble around in a stupor because you just got through sleeping—

Senator BAYH. And every year some of them are dead.

Senator HRUSKA. And they buy 2 million guns a year. You may have theories on it; the police may have cases and so on, but in the minds of the people of this country, 2 million people a year buy guns. Now, how do you get around that?

Senator HART. That is why I said, in earlier questioning, that until we persuade those 2 million that it is not just some bubble-headed theory, but it is fact that they are better off without the weapon. We will also have the problem of Birch Bayh having hearings here, but as soon as we get the fact established—

Senator BAYH. Let me have a moment of confession, may I? I suppose I have that old traditional, midwest, farmboy feeling that I would rather have something available to defend myself. I confess that. But, my feeling is one thing; what police officer after police officer reports to me based on experience and the facts—the statistics—makes me wonder whether my old native visceral feeling is accurate or not. Of course, I think the problem with this is that all of us, individually, think that we can take care of our own situation. We will not be one of the statistics that the police tell us. I am sure my distinguished colleague from Nebraska has been hearing the same statistics. They tell us that there are a lot more people killed every year by the criminal—when they try to get up in the middle of the night and defend themselves—than the criminals are killed.<sup>1</sup> That is fact.

Now, what we do about it is something else. I think what we have to do is keep pursuing the truth on this, and try to persuade those on both sides of this issue to listen to what the facts are and not what some of the normal inclinations might be. Excuse me.

#### MANDATORY GUN LAW SENTENCING IN NEBRASKA BENEFICIAL

Senator HRUSKA. That is a good statement of the case and in order. I do not know that any of us argue with the position that every effort should be made to keep the handgun out of the hands of people who will use them improperly. In our State of Nebraska, for example, we have a law making it mandatory, in the commission of a felony with the use of a handgun, that there be a sentence of up to 2 years, and there is a minimum also established. It has had a very, very salutary effect. Now, that is a way of dealing with people who misuse the gun, and when that becomes known and applied, it has a very beneficial impact upon the criminal community, and it is something that is readily enforceable, and it is effective.

There are other ways in which it can be done, but if we are going to make accommodations for the feelings and for the convictions of people who are in areas of the country that are not like the interior

<sup>1</sup> "For every burglar stopped by a gun, four to six homeowners or family members are killed accidentally by a gun." George D. Newton and Franklin E. Zimring, *Firearms and Violence in American Life*, A Staff Report to the National Commission on the Causes and Prevention of Violence (Washington, D.C.: Government Printing Office, 1970), chapter 10.



of Boston, Philadelphia, Detroit, or even Omaha, when we get into that I think we can make a pretty good case that there would not be much hope of enacting legislation that would take the gun away from them.

Senator HART. You mean, except in those center cities, people would not obey the law?

Senator HRUSKA. They are not obeying it in New York, are they? A million of them.

Senator HART. I was just trying to understand what you just said.

Senator HRUSKA. I said: I do not advocate it, I do not approve it, I do not like it, but they do, in cities where there are registration laws, millions of peoples do not obey the law. They are law-abiding citizens in every other respect, but they are not going to do it in this case, and they do not do it. Now, you see that is separate and apart. If a law would guarantee that there would be an absolute abolition of guns and with a puff of smoke they would disappear, that is one thing, but where you have the residue of people who will have them.

Senator BAYH. Could I ask my colleague from Nebraska, a question relative to the Peterson Commission report? As I recall, you recommended that approach to our colleague from Michigan. We are going to have to find a way to reconcile some rather dramatic differences of opinion. Not only are they dramatically different, but I think they are based on convictions of both of you gentlemen here.

#### SENATE PASSED "SATURDAY NIGHT SPECIAL" BILL IN 1972

As chairman of this subcommittee, I would like to suggest that the only firearms legislation we passed in the last few years is my Saturday Night Special bill, which passed the Senate in 1972 but could not get any action in the House. It did not go nearly as far as the Senator from Michigan intended it to go, and it went a little bit further than the Senator from Nebraska wanted it to go. But, I believe both of you supported it as a step in the right direction.

It seems to me we are going to have to reconcile some differences here if we are going to have any progress, because none of us like to have people illegally using weapons; none of us like to see families or unsuspecting business people preyed upon. I would suggest we are probably going to have to approach it, both from the standpoint of what we can do to limit the supply, and the access to weapons—particularly access. If we can find a way, as I think we can, to limit access to those weapons that are preferred weapons that would be a first step. Second, I am convinced, in listening to testimony by the law enforcement officers, that we are going to have to deal with the criminal element. I would rather take the steps that limit access, so a crime is not committed; and I think one of the disincentives is how you deal with the criminal element. We witness examples here in this city, where you have somebody who commits a felony with a firearm; apprehended and brought before a judge; then shortly later apprehended again committing another felony with a weapon.

Now, certainly we can deal with that, as well as deal with access to firearms. Now, the Peterson Commission approach is basically a State approach, and it deals, of course, with the limited access approach. Would my distinguished colleague from Nebraska consider the possibility of saying, all right, we are going to follow the

Peterson approach, or a version thereof as it affects handguns, and give the States first option, but for those States who refuse to comply with this approach, then we are going to impose a national option?

Senator HRUSKA. A sort of voluntary plan that you must do it?

Senator BAYH. No—I may have misinterpreted—but you recommended that the Senator from Michigan read the Peterson report.

Senator HART. I read one sentence from the Peterson report.

Senator HRUSKA. Yes, I believe it was one sentence read out of context.

Senator HART. I believe it is under the caption, Conclusion: "All of the arguments against prohibiting the private possession of handguns become, by comparison, subordinate to the death, tragedy and violence that abound in the absence of such legislation." That is the way I read it.

#### PETERSON REPORT OF FIREARM PROTECTION THEORY

Senator BAYH. There is also a sentence in there that is relevant to my previous colloquy here which states, at least according to the experts who compiled the Peterson report, that there are six times as many people killed trying to protect themselves with firearms as are criminals using firearms. Now, that is a sad figure.

Senator HART. That is the kind of figure that we simply have to come to accept. It is not theory; it is fact.

Senator BAYH. That goes against my native feeling, but that is what the Peterson Commission found.

Senator HART. If we understand that there is greater danger in me, a good person, having one of those things—long, short or in between—than not having it, and if, by my not having it, we reduce the reservoir from which the bad guy gets his, then those seven votes of a couple of years ago would turn up to be about 98. But until that happens, we are swimming upstream, I know.

Senator HRUSKA. Just to set the record straight, I do not believe there was anything in my remarks that should be construed as an approval of the Peterson report. My remarks were directed to a question to the Senator from Michigan, asking what comment he would have on that approach, and I am not prepared to accept the totality of the Peterson approach. I am not prepared to do that, and in due time I will explain why.

But, the idea has been explored before on the Senate floor—I believe it was the junior Senator from Massachusetts who proposed it on a voluntary basis—that the States be given so many years in which to enact a law and, if they did not, the Federal law would apply. That, in my idea, is a distortion, it is somewhat of a violation of the concept of volunteerism—you have to do it—and it was turned down with a very handsome vote, impressive vote, from my standpoint. In any event, they just did not go for it. It was not voluntary, and it was another wolf in sheep's clothing.

#### LACK OF LAW ENFORCEMENT AND JAIL SENTENCE

So, those are some of the issues we are going to have to thrash out here. I still say the big problem we have to lick is presented when we get into the question of enforcement of law. For example, we

had an exhibit in 1972 from Jerry Wilson, the Chief of Police down in Washington, D.C., where he cited hundreds of arrests for illegal possession of guns on the streets, literally hundreds, I forget how many there were, and I do not recall if there was anyone who went to jail on that account.

We also have a study made in Philadelphia which shows a total of some 2,700 arrest for carrying dangerous weapons, and 28 went to State prison and 100 went to county prison. The rest were either found guilty, charges were not filed, or they were put on probation, or suspended sentence and fined. Now, what more simple violation of the law is there? It is against the law to have a gun on your person on the streets of Washington, and a man who is in fact, found with a gun in his possession in Washington, what simpler prosecutory problem is there than that? Yet, we find it is not done. It can be done in Houston; for example, as I point out in my statement in 1973 there were 1,563 cases filed, resulting in 1,430 convictions and sentences. It can be done, but it is not done in America, generally, and that was pointed out so dramatically by Attorney General Saxbe in, I think, the last speech he made as Attorney General, in which he said that people do not want to enforce many laws, the people in this country do not put that burden sufficiently, either upon the prosecutors or the judges, to get the job done. They do not want it, and that is one of the things we are going to have to resolve in this area. The goal is to keep the handguns out of the hands of people who will misuse them, and there is a way of doing it.

But, I do not believe that the passage of a law, even banning guns outright, would do the job. That is my position on it which I will elaborate on more specifically at a later time when I analyze your bill, Senator Hart, and comment on it in detail.

We have been over this ground before, have we not, Senator Hart?

Senator HART. Yes, we have.

Senator BAYH. It sounds familiar.

Senator HRUSKA. Thank you, Mr. Chairman, for your patience and your courtesy.

Senator BAYH. That is what we are trying to do here, to develop a dialog. Senator Hart, we appreciate your being here. The members of this subcommittee, of course, you being a member, are trying to pursue our responsibilities in a reasonable fashion. Of course, there is no magic formula. The onus and the burden should be directed at those who misuse and the inconvenience must be minimized so far as those who do not misuse weapons. Of course, that is what we are trying to do. It is awfully difficult to draft a statute with that exact balance.

Senator HRUSKA. May I have permission, Mr. Chairman, to put in the record a story in the Baltimore Sun about the drive in New York to get a voluntary surrender of the illegal guns that are held there. It netted 600, and there are other similar situations in other cities. Maryland, I guess, tried it; Baltimore tried it.

This bears again on the proposition that where the people disobey the law, and in this case, out of a million, 600 turned in their guns, and the balance are violating the law, there is little prospect of enforcing additional laws.

[The article referred to above follows.]



## [EXHIBIT No. 8]

[From the Baltimore Sun, April 23, 1975]

## N.Y. DRIVE NETS ONLY 600 GUNS

(By J. S. Bainbridge, Jr.)

New York—This city, with more than a million handguns in circulation, last month tried to get its citizens to turn in firearms by declaring a moratorium on gun-violation charges, without notable success.

Anyone possessing a gun could leave it at a police station during March without fear of prosecution or even having to identify himself.

Yet only about 600 firearms were collected, while guns still arrive here illegally in great numbers from southern states which have few restrictions on their sale.

All guns turned in to the New York police will be destroyed except for a pair of World War I aircraft machine guns which are now the property of the city's police museum.

Baltimore, which last fall offered a \$50 bounty for each handgun turned in to the police but did not provide the safety of anonymity for bounty seekers, accumulated more than 13,000 assorted weapons.

Weapons are still accepted for free in Baltimore, and the police give \$100 to any person who turns in someone illegally using or possessing a firearm.

The crime rate in neither Baltimore nor New York has shown any significant improvement as a result of the local gun control efforts.

Robert M. Morgenthau, the Manhattan district attorney, said the amnesty was part of a general crackdown on illegal firearms and would help "set the groundwork for getting stiffer sentences for people convicted of illegal possession of guns."

Only 15 per cent of those arrested for illegal guns in New York actually receive jail sentences, according to Mr. Morgenthau.

New York, which has the nation's toughest gun control laws, did consider Baltimore's bounty system, but the city is suffering through a severe financial time, and, according to a police spokesman, "We just don't have the money."

"We don't believe in paying people for complying with the law," Mr. Morgenthau, adding that he is in favor of stiff, federal control of firearms.

The police department continues to allow anyone to turn in guns without fear of being charged for possession. But the March amnesty allowed the disarmed gun toters to remain anonymous.

On April 6, Washington started a 90-day amnesty program similar to New York's, but as of yesterday, only 35 guns had been relinquished by their owners. Washington also offers anonymity, but not cash, for the weapons.

Edward H. Levi, the U.S. Attorney General, said recently that he is considering proposals which would drastically restrict private ownership of handguns in metropolitan areas with serious crime problems, including New York and Baltimore.

Donald D. Pomerleau, the Baltimore police commissioner, said through a spokesman, that he is "pleased" that the attorney general "recognizes that handguns are not the problem of smaller cities and rural areas."

Mr. Pomerleau said he is interested in legislation that would impose heavy federal taxation on the purchase of cheap guns—with lower taxes on better weapons, which are not thought to be a serious crime problem.

He added that he would support a federal attempt to buy up cheap guns to get them off the streets.

Long an opponent of confiscatory gun regulations, Mr. Pomerleau would not support legislation that would take guns away from legitimate sportsmen, his spokesman emphasized.

There has been no response yet from Michael J. Codd, the police commissioner of New York, to Mr. Levi's statements, though many New York officials have long insisted that strict controls be made national.

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Senator BAYH. The tragic thing about this—and you know I am not prepared to support a solution as severe as my distinguished friend from Michigan—is you cannot refute the fact that a lot of

those normally law-abiding people are going to kill themselves and others.

Senator HRUSKA. There were 600 gun accidents, I believe, in 1971. There is no reason to believe that by accidental discharges——

Senator BAYH. I am not talking about accidental situations; I am talking about domestic disputes and the like.

Senator HRUSKA. Oh, on that score, you are right.

Senator BAYH. Something goes wrong inside their head and the emotion of the moment causes them to strike out. The record will show if you have available one of those seemingly inoffensive small weapons—zap, a death missile is dispensed. What we do about that, I do not know, but that is a fact. We do not permit a cooling period. I do not think there is any need to reiterate this. The facts are that a lot of people are being killed by relatives and acquaintances.

Thank you, you have been very kind, Senator Hart.

Senator HART. Thank you very much, Mr. Chairman.

Senator BAYH. Next we have Mr. David R. Macdonald, assistant Secretary for Enforcement, Operations, and Tariff Affairs, Treasury Department.

I understand he has Mr. Featherstone, Deputy Assistant Secretary for Enforcement; James B. Clawson, Deputy Assistant Secretary for Operations; Rex D. Davis, Director, Bureau of Alcohol, Tobacco and Firearms; and Marvin J. Dessler, Acting Chief Counsel, Bureau of Alcohol, Tobacco and Firearms.

Gentlemen, we appreciate your being here. I suppose that it is fair to say you are wearing two hats. At least the hat you wear encompasses the dual responsibility that this subcommittee has as the legislative committee with primary jurisdiction over the legislative process in this area; and, also have a responsibility of oversight in addressing ourselves to legislation that is now on the books. I frankly would like for us today to also consider that oversight function.

At the same time, you may have thoughts about where we go from here.

**STATEMENT OF DAVID R. MACDONALD, ASSISTANT SECRETARY FOR ENFORCEMENT, OPERATIONS, AND TARIFF AFFAIRS, TREASURY DEPARTMENT; ACCOMPANIED BY JAMES B. CLAWSON, DEPUTY ASSISTANT SECRETARY FOR OPERATIONS; JAMES J. FEATHERSTONE, DEPUTY ASSISTANT SECRETARY FOR ENFORCEMENT; REX D. DAVIS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS; AND MARVIN J. DESSLER, ACTING CHIEF COUNSEL, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, TREASURY DEPARTMENT**

Mr. MACDONALD. Thank you, Mr. Chairman. I want to say that we are happy to be here, in both our capacities, and subject ourselves to the questioning of you and of the committee, both as to your oversight functions and as to your legislative function.

My name is David R. Macdonald and I am the Assistant Secretary of the Treasury for Enforcement, Operations, and Tariff Affairs.

On my left is Rex Davis, the Director of the Bureau of Alcohol, Tobacco and Firearms, which is under the Treasury.

To his left is Marvin J. Dessler, the Acting Chief Counsel of ATF. On my immediate right is James Featherstone, who is the Deputy Assistant Secretary for Enforcement. Jim Featherstone was previously a Deputy Chief of the Organized Crime Section of the Department of Justice and he is in charge of enforcement policy for the Treasury Department.

On his right is James Clawson, Deputy Assistant Secretary for Operations, who supervises the housekeeping, the budgetary, and the other operational aspects of the Bureau of Alcohol, Tobacco and Firearms.

Mr. Chairman, this committee has undertaken the awesome task of isolating and legislatively addressing itself to one of the most basic and distressing national problems—that of rooting out the causes of juvenile crime.

Handgun availability is undoubtedly a factor to be considered in pursuing the solution of this problem. Nevertheless, we believe that any discussion of gun control in the context of a growing problem of juvenile crime and delinquency may imply a simplistic and exclusive cause and effect relationship between the two.

There is no doubt, in our opinion, that the easy availability of handguns does contribute to the opportunity to commit violent crimes and thus to the frequency with which they are committed. This may be particularly true in the case of adolescents, as indicated in tables 3 and 4<sup>1</sup> which are appended to this statement.

Nevertheless, efforts at gun control legislation may address more of a symptom than a cause of juvenile delinquency. This is not to say that any legislative effort in this area will be fruitless.

#### LOSS OF FAITH IN JUDICIAL SYSTEM

I would however, qualify the importance of my testimony on gun control laws before this committee by pointing out that deeper, more basic roots may be found to the thorny tree of violent juvenile crime in a growing lack of confidence in the ability of State and local enforcement agencies to protect the public, and to loss of faith in the ability of the judicial system to bring criminals swiftly and certainly to trial and conviction, particularly in large metropolitan areas. This loss of confidence finds objective support in the low percentage of convictions to arrests, as indicated in table 5,<sup>2</sup> appended to this statement.

This loss of faith leads naturally to a propensity on the part of citizenry to attempt their own protection from criminal elements—hence, a race to arms for self-protection.

Even beyond the loss of confidence in our judicial system, there appears to be a deeper cause of anxiety and instability in a large section of our youth which has resulted from a weakening of our social institutions. The decline in stable social institutions historically appears to have gone hand in hand with a rise in violence.

Thus, the solutions to difficulties which the Treasury Department has experienced in administering the Gun Control Act of 1968 which

<sup>1</sup> See p. 61.

<sup>2</sup> See p. 62.



I am about to discuss do not purport to present a cure-all legislative solution to the Nation's crime problem or to youthful involvement in it. Instead, the proposals represent what the Department tentatively considers to be realistic and administratively feasible responses to some of the more critical facets of the firearms dilemma and which responses should not engender unwarranted and deleterious side-effects. These proposals have not been cleared with the Domestic Council or the President.

I might add, we have limited our approach to a request of this subcommittee, to limit it to our experience under the Gun Control Act of 1968. These proposals are designed also not to be inconsistent with other proposals, such as the proposals made by the Attorney General.

Generally speaking, it has been the experience of the Treasury Department that the basic precepts embodied in the Gun Control Act of 1968 present a workable format for regulating the sale of firearms in the United States. That is to say, the Federal dealer-licensee concept and its attendant recording provisions and restrictions upon the transfer of firearms have proved to be a viable approach to the firearms problem.

#### INADEQUACY OF PRESENT FIREARMS LAW

Nevertheless, experience has also shown that existing law is inadequate in many respects. More specifically, the Department perceives the following to be the most critical deficiencies:

One: The absence of sufficient licensing standards to insure that Federal licenses will only be issued to responsible, law-abiding persons who actually intend to conduct a bonafide business.

Two: The absence of controls upon the importation of parts for and the domestic manufacture and assembly of small, lightweight, easily concealable, and inexpensive handguns commonly known as "Saturday Night Specials."

Three: The absence of an effective statutory means to prosecute and punish felons and other dangerous persons for the possession and use of firearms.

The legislative history underlying the licensing provisions of the Gun Control Act of 1968 reflects a major congressional concern that licenses would be issued only to responsible, law-abiding persons actually engaged in or intending to engage in business as importers, manufacturers, or dealers in firearms or ammunition.

Unfortunately, it has become apparent in recent years that congressional aspirations in this regard have been frustrated by a proliferation of applications from individuals who never intended to engage in a bona fide firearms business, but who merely desire a Federal license in order to obtain firearms or ammunition for their personal use at wholesale prices or to receive firearms in interstate commerce for that purpose. Frequently, such individuals are undercapitalized and lack both the business experience and financial capacity needed to conduct a business. In many instances no business is conducted at all, or a marginal business is carried on which disregards Federal regulations.

Present Federal law requires every applicant for a Federal firearms dealers license who pays his \$10 annual fee to be issued a

license within 45 days, unless he is under indictment for a felony, convicted of a felony, a fugitive from justice or a drug user or addict.

Consequently, the Bureau of Alcohol, Tobacco, and Firearms has been compelled to issue literally thousands of licenses to individuals, not all of whom engage in the business of dealing in firearms full time.

#### DEALERS—LESS THAN 30 PERCENT BONA FIDE

Under existing law, more than 156,000 individuals or entities are currently licensed to conduct firearms businesses in the United States. Since the passage of the 1968 act, this figure has increased yearly. Of this number, it is estimated that less than 30 percent actually conduct a bona fide firearms business. Due to the sheer magnitude of the number of licensees, it is impossible for ATF to monitor each licensee and it is becoming increasingly difficult to maintain a meaningful and effective compliance program based upon even random or periodic inspections. And, I might add, parenthetically, that this may express itself in part to Senator Hruska's concern, as to why the law in interstate traffic is not being totally enforced.

Accordingly, the Department proposes a number of interrelated amendments to the Gun Control Act which are designed to tighten existing licensing standards in order to reduce the number of Federal licensees and discourage what might be called "nominal" applications.

First, we propose amending the existing licensing standards by including a provision which would permit the Treasury's Bureau of Alcohol, Tobacco and Firearms to inquire into each applicant's business experience, financial standing, and trade connections in order to determine whether the applicant is likely to commence the proposed business within a reasonable period of time and maintain such business in conformity with Federal law.

The proposed provision has been utilized for a number of years in the issuance of liquor permits to persons engaged in liquor businesses under the Federal Alcohol Administration Act. In this regard, the provision has functioned fairly and effectively and has been reasonably construed by the courts. If incorporated into the firearms licensing area, the proposed amendment would be of significant value in weeding out "nominal" or disreputable licensees.

As an additional means of strengthening the licensing standards, we would propose an amendment which would require a finding that the business to be conducted would not be prohibited by any State or local law applicable in the jurisdiction where the applicant's premises is located. This provision would further a major congressional objective in enacting the Gun Control Act which was to provide support to State and local law enforcement officials and would furnish the Department with a specific statutory basis for denying a firearms application where State or local law would prohibit the business sought to be conducted.

#### CREATE SPECIAL LICENSE CATEGORIES

A third proposal is to amend the act to create special license categories for ammunition dealers, gunsmiths and dealers in long guns only. Experience has shown that a large portion of existing licens-

ees, perhaps 20 to 30 percent, are engaged almost exclusively in selling ammunition.

In fact, many of these licenses are small "mom and pop" stores which carry ammunition only as a convenience to their customers. Under existing law, separate categories do not exist for these persons and they receive the same dealer's license that is issued to firearms dealers.

The establishment of these special licenses would restrict those persons to engaging in their limited activities. Hence, neither a gunsmith nor an ammunition retailer could lawfully sell firearms, and a long gun dealer could not sell handguns, but a firearms dealers would be permitted to sell all firearms, ammunition, and to repair firearms.

The new licensing structure would facilitate a more efficient and economical assignment of inspection priorities since these limited licensees would not require the same scrutiny as would unlimited firearms dealers.

Senator BAYH. Could I interrupt just a moment? I can certainly understand the rationale here, to treat the "mom and pop" store, ammunition sellers, differently than those who actually deal in firearms. I think the "mom and pop" stores would like that themselves, and it would make your job easier as far as enforcement and monitoring.

I assume there is no way, looking at the application, to differentiate between a small community grocery store that sells .22 caliber ammunition and someone who sells a very sophisticated line of weapons. Is that accurate? There is no way of discriminating?

Mr. MACDONALD. I think that is true, sir. We did give some thought to the fact that in the country there are people who sell long guns only for hunting purposes. They have a firearms license. We thought they might be able to get by without a handgun license, which is the license that we are addressing ourselves to.

Senator BAYH. All right, but at the present time you say you do not have the ability to distinguish between types of licenses. There are some small hardware stores and even all-purpose grocery stores and whatnot that sell weapons as well as ammunition. There are also those stores that sell shotgun shells and .22 ammunition and never sell weapons.

Mr. MACDONALD. Right.

#### ROLE OF GUNSMITH IN WEAPONS DEALING

Senator BAYH. I wonder why is it that you segregate out a gunsmith, who actually has the capacity to make and deal with weapons, and treat him differently than somebody who sells weapons? It seems to me you are talking about the similar caliber of person and role.

Mr. MACDONALD. I am not so sure that we would segregate him out in terms of less examination, but we would rather have him separate so that we know. He is a gun repairer, by and large. If he gets into the manufacturing area, then he is going to have to have a manufacturing license.

But the gun repairer, we feel, is in an absolutely legitimate business; and a business that does not lend itself to the threat that we are addressing ourselves to.



Senator BAYH. Well, all right, but that is different. It seems to me that if you are categorizing it, a fellow who is actually repairing guns is probably in about the same category as someone who is selling that same type of gun.

Mr. MACDONALD. We just do not believe so.

Senator HRUSKA. That would not necessarily follow. Many gun purchasers, particularly of shotguns find this the case. I had an experience in my town not too many years ago. I wanted to get a little adjustment on a shotgun. I wanted a rib put on a barrel. I wanted the stock fit to my shoulder. And so on and so forth. So I could miss far fewer ducks than I even do now.

Now the gunsmith would not be able to sell the gun under those circumstances and if you did not have a license for it, if he could only fix the guns, it would take him out of that category where he would have to be policed, patroled, and monitored, would it not?

Mr. MACDONALD. I think so, and I think most gunsmiths do address themselves to long guns, which is another thing.

Senator BAYH. Maybe there are some, but I wonder how many gunsmiths also occasionally sell weapons?

Senator HRUSKA. In which case they would be violating the law, if they did not have a proper license. That is simple.

Mr. MACDONALD. That is the way we would look at it.

Senator HRUSKA. And what is to stop a man in a basement from selling guns illegally? It would be a little bit difficult to prove, and if you catch him and try to punish him, the judge will probably not let you do it.

Mr. MACDONALD. Should I continue, sir?

Senator BAYH. Yes.

#### PROPOSE AMENDED FEE SCHEDULES

Mr. MACDONALD. We would also propose that the fee schedule be amended by increasing license fees generally, particularly for (1) firearms dealers handling handguns; and (2) pawnbrokers dealing in firearms.

Thus, we would raise the handgun firearms dealer's fee to a high multiple of the present \$10 paid annually which would assure that only those seriously interested in pursuing the business would pay it, and we would also increase the pawn-broker-gun dealer's license to an amount which basically finances frequent inspections by ATF personnel.

With regard to the increase in license fees for pawnbrokers, it should be noted that ATF's "Project Identification",<sup>1</sup> which involved the tracing of firearms used in crime in eight major urban areas, reflected that 30 to 35 percent of the handguns used in crime had passed through pawnshops.

In order to encourage applicants to apply for a "limited" license, we would establish substantially lower fees for gunsmiths and dealers in ammunition only, and moderate fees for firearms dealers who do not deal in handguns.

We believe that the suggested fee modifications will be reasonable and would not impose an impediment to any applicant who is truly desirous of engaging in a bona fide firearms business. Rather, the

<sup>1</sup> See subsequent information, p. 313.

increased fees would discourage the filing of license applications by those who would not or should not qualify for licensing. From a fiscal standpoint, the increased fees would, of course, absorb a portion of the Department's costs with respect to processing and investigating license applications.

#### GREATER RANGE OF FIREARMS DEALERS' PENALTIES

We also find that there is a need for a greater range of penalties than presently exists with which to deal with firearms dealers who violate the laws. In this connection, we believe that ATF should have authority to suspend firearms licenses and accept monetary offers in compromise for such violations. Under existing law, licenses are subject to revocation if the holder has violated any provision of law or regulation. The only alternative to administrative revocation, however, is the criminal prosecution of the licensee for violations that frequently are only inadvertent, such as some bookkeeping violations.

While any violation of the gun control laws may be deemed to be serious, some are less serious than others and do not warrant the institution of criminal or revocation proceedings. Even inadvertent violations, however, may warrant administrative action less severe than license revocation.

The "suspension" and "offer in compromise" authority would afford ATF a more flexible vehicle with which to equitably insure compliance. Ample precedent exists for the granting of suspension and compromise authority under other laws administered by the Treasury Department, including laws relating to regulation of distilled spirits and tobacco industries. This authority would appear to be equally appropriate in the area of firearms regulation.

Turning now to the matter of handguns, the problems engendered by the proliferation of handguns in American cities has become self evident and requires no real elaboration at this point. Suffice it to say that recent estimates place the number of handguns in America at about 40 million, while deaths by handguns have increased almost 50 percent in the last decade. Accordingly, the Department's proposals embrace a number of provisions which are directed at the handgun problem generally and more specifically at the proliferation of low quality, inexpensive handguns known as "Saturday Night Specials".

#### SATURDAY NIGHT SPECIALS A UNIQUE DANGER

In recent years the Department has carefully evaluated a number of legislative proposals which have had as their principal objective the eventual removal of the "Saturday Night Special" from the American scene. Although the various proposals have taken a wide range of approaches, all of the proposals are premised upon the fact that these small, lightweight, easily concealable and inexpensive handguns present a unique danger to the American public.

Thus far, one of the difficulties encountered in these legislative attempts to address the Saturday Night Special problem has centered around the formulation of adequate criteria to define that term. Obviously, effective proscriptions cannot be implemented against such firearms unless the law also defines with precision what weapons are to be affected. In this regard, we propose that the so-called "factoring criteria" utilized under the Gun Control Act of 1968 for

determining the eligibility of handguns for importation under the "sporting purpose" test be adopted, with certain modifications for use in the Saturday Night Special area.

Thus, we would propose that it be made unlawful for any licensed manufacturer or licensed importer to manufacture, assemble, or import for purposes of sale in the United States any handgun that has not been approved pursuant to detailed specification criteria which would be set forth in the statute.

Prescribing the criteria by statute would negate the objection that mutable standards determined by administrative officials govern the trade in handguns. Under such criteria, the key characteristic would be overall size. That is something I do not think everybody understands, the "factoring criteria" that we presently use involves first a test of overall size, then a point factor. Under such criteria——



Department  
of the  
Treasury  
Internal  
Revenue  
Service

## Factoring Criteria for Weapons

### Note:

The Internal Revenue Service reserves the right to preclude importation of any revolver or pistol which achieves an apparent qualifying score but does not adhere to the provisions of section 925(d)(3) of Amended Chapter 44, Title 18, U.S.C.

### Pistol model

Individual characteristics and factor allowance	Sub-total (points)
---	--------------------

#### Overall length

For each ¼" over 6" (1 value)

#### Frame construction

Investment cast or

forged steel (15 value)

Investment cast or

forged HTS alloy (20 value)

#### Weapon weight w/magazine (unloaded)

Per ounce (1 value)

#### Caliber

.22 short and .25 auto (0 value)

.22 LR and 7.65mm to .380 auto (3 value)

9mm parabellum and over (10 value)

#### Safety features

Locked breech mechanism (5 value)

Loaded chamber indicator (5 value)

Grip safety (3 value)

Magazine safety (5 value)

Firing pin block or lock (10 value)

#### Miscellaneous equipment

External hammer (2 value)

Double action (10 value)

Drift adjustable target sight (5 value)

Click adjustable target sight (10 value)

Target grips (5 value)

Target trigger (2 value)

#### Prerequisites:

- 1) The pistol must have a positive manually operated safety device.
- 2) The combined length and height must be in excess of 10" with the height (right angle measurement to barrel without magazine or extension) being at least 4" and the length being at least 6".

Score achieved

Qualifying score is 75 points

### Revolver model

Individual characteristics and factor allowance	Sub-total (points)
---	--------------------

#### Barrel length

(muzzle to cylinder face)

Less than 4" (0 value)

For each ¼" over 4" (½ value)

#### Frame construction

Investment cast or

forged steel (15 value)

Investment cast or

forged HTS alloy (20 value)

#### Weapon weight (unloaded)

Per ounce (1 value)

#### Caliber

.22 short to .25 ACP (0 value)

.22 LR and .30 to .38 S&W (3 value)

.38 special (4 value)

.357 mag and over (5 value)

#### Miscellaneous equipment

Adjustable target sights

(drift or click) (5 value)

Target grips (5 value)

Target hammer and

target trigger (5 value)

#### Prerequisites:

- 1) Must pass safety test.
- 2) Must have overall frame (with conventional grips) length (not diagonal) of 4½" minimum.
- 3) Must have a barrel length of at least 3".

#### Safety test:

A Double Action Revolver must have a safety feature which automatically (or in a Single Action Revolver by manual operation) causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge. The safety device must withstand the impact of a weight equal to the weight of the revolver dropping from a distance of 36" in a line parallel to the barrel upon the rear of the hammer spur, a total of 5 times.

Score achieved

Qualifying score is 45 points



Senator BAYH. I am not certain everybody understands that, but certainly the chairman of this subcommittee does, because that was the exact criteria we used in the bill which passed the Senate in 1972.

Mr. MACDONALD. I was not addressing myself to the committee. I am sorry, Senator, I did not mean to leave that impression. I think the public does not always understand that.

Under such criteria, the key characteristics would be overall size: No handgun failing to meet certain minimum size standards would be acceptable for manufacture, assembly or importation. In the case of revolvers, a barrel length of greater than 3 inches would be mandatory.

In this connection, there was a comment made a few minutes ago by Senator Kennedy who indicated that he believed that the administration had not lived up to the spirit and terms of the Gun Control Act of 1968 by allowing handguns into the United States, imported handguns into the United States.

And, although we can go into it in more detail, I believe the legislative history behind the Gun Control Act of 1968 is clear that the intent was to allow certain pistols and certain revolvers into the United States, such as Browning-made weapons.

Senator BAYH. Sporting handguns?

Mr. MACDONALD. Yes.

#### CRITERIA FOR DESIGNATING "SPORTING" WEAPONS

Senator BAYH. And your criteria was designed to define by regulation what "sporting" meant; and you used a number of criteria such as safety, weight, overall size, length—

Mr. MACDONALD. Quality.

Senator BAYH. Interestingly enough, I was going to list that, but then did not. The criteria that is in that act now as far as importation is concerned, does have that 3-inch and 6-inch barrel minimum for revolvers and pistols respectively?

Mr. MACDONALD. Yes; the 3 inch and then the 6 by 4.

Senator BAYH. Yes.

Mr. MACDONALD. In addition, various safety features would also be required before a weapon would be acceptable. Other characteristics would be dealt with by means of a point system which would take into account such characteristics as size, frame construction, weight, caliber, safety features, and miscellaneous equipment.

In addition to the prerequisites of size and safety features, a pistol and a revolver to be approved for manufacture, assembly, or importation must achieve a minimum point value.

Although the Department's proposal adopts the same fundamental approach as the existing "factoring system", the existing system has been modified somewhat by increasing the point value which must be met before a handgun is acceptable.

A wider variety of characteristics are provided, however, under which a particular handgun model can achieve points. It is believed that the revised point system is more objective and provides greater flexibility to allow quality handguns to meet the criteria for approval, while at the same time eliminating the same lightweight, easily concealable, cheap handguns which have no legitimate sporting purpose. Exceptions would be provided for sales to law enforce-

ment agencies. Modification of handguns which causes them to lose their qualification would be prohibited.

#### NOTIFICATION TO DEALERS OF HANDGUN EVALUATIONS

Further, our proposal would include provisions for the notification of licensed importers and manufacturers of the results of handgun evaluations and would afford judicial review of adverse decisions by ATF. In order to provide an identical test to cover both foreign and domestic handguns, we would recommend that the import provisions of the 1968 act be amended to substitute the detailed criteria I have described for the general language of the "sporting purpose" test for importation.

Our proposals dealing with the so-called "Saturday Night Special" are directed primarily at licensed importers and licensed manufacturers and would, therefore, strike at the source of the problem. While these proposals would not rid the Nation of these firearms, they would effectively stop the yearly flood of cheap handguns into the domestic marketplace. In this connection, recent ATF studies disclose that handguns directly acquired are those largely used in the commission of violent crimes. Moreover, given also increased controls over interstate dealings in handguns, our proposal to remove the supply source of Saturday Night Specials could place the problem where it may be adequately further regulated by State governments as they see fit.

As the Gun Control Act now stands, second or subsequent offenders who are convicted of the offenses of carrying unlawfully or using a firearm in the commission of a Federal crime are subject to a mandatory minimum of 2 years' imprisonment and a maximum of 25 years' imprisonment.

We believe that the act should be modified so that a mandatory sentencing provision would be applicable to first offenders as well as to recidivists. That is to say, we would propose for the first offenders a mandatory minimum sentence of 1 year, with a discretionary 5-year maximum. The new penalty proposal would not be so harsh as to be counterproductive in terms of acceptability by courts and juries, but would serve as a more formidable deterrent to the misuse of firearms.

Finally, we propose new legislation which would prohibit felons and other classes of dangerous persons from possessing firearms. While existing law, enacted as title VII of the Omnibus Crime Control and Safe Streets Act of 1968, was intended by the Congress to proscribe mere possession, receipt, and transportation of firearms by such persons, this law was construed by the Supreme Court on December 20, 1971, in a 5 to 2 decision in *United States v. Bass*<sup>1</sup> to require proof of an interstate commerce nexus with respect to these offenses. More specifically, it was held that the statutory language "in commerce or affecting commerce" modified each offense as defined by the statute.

<sup>1</sup> See Exhibit No. 9, p. 64.

In deciding the *Bass* case as it did, the Supreme Court rejected the Government's position that mere possession constitutes a crime under title VII, a position which was upheld by 5 of the 6 U.S. Courts of Appeals that had ruled on this issue.

A review of the legislative history of the existing statute convincingly demonstrates that the true intent of Congress was to prohibit mere possession of firearms by certain classes of people deemed too dangerous to society to own them.

This intent, however, in our opinion, was thwarted by the use of inartful statutory language which led to the narrow construction by a majority of the Court. Under the doctrine of *United States v. Perez*,<sup>1</sup> moreover, we believe that a valid finding can be made by Congress that the possession of weapons by such persons itself poses a threat to interstate commerce, and thus that a commerce nexus need not be proved as to each violation.

Accordingly, the Department would propose to delete the troublesome language from the statute. If amended in this manner, these laws could be enforced as Congress originally intended.

#### REPEAL TITLE VII AND INCORPORATE IN CHAPTER 44

Additionally, we propose to repeal existing title VII and place the substance of its provisions, together with needed corrective amendments, within Chapter 44 of Title 18, United States Code. This chapter, of course, contains all other provisions of Federal law relative to the shipment, transportation, and receipt of firearms by felons and other proscribed categories of persons.

It should also be noted that title VII was a floor amendment to the Omnibus Crime Control and Safe Streets Act, and it is obvious that less than normal consideration was given to conforming it to title IV of the act, the predecessor to chapter 44. As a result, the categories of persons who are prohibited by chapter 44 from shipping, transporting, or receiving firearms in interstate commerce and to whom Federal firearms licensees may not lawfully sell firearms are not in conformity with the proscribed categories of persons under title VII. Therefore, we propose to make these categories more closely conform.

Our proposals, Mr. Chairman, are addressed primarily to the question of interstate traffic in firearms and particularly handguns. We would like to preserve local control over gun regulation. Our studies have convinced us, however, that an interstate traffic exists with respect to guns used in crimes which deserves more Federal attention than it has received.

We believe that the proposals in the area of dealer licensing are somewhat analogous to the regulation of brokers and dealers in investment securities under the Securities and Exchange Act of 1934. What we are attempting to do is place ATF in a position to control the boilerships in the handgun field and provide the necessary support to enable local law enforcement agencies to be effective instead of becoming engulfed in an uncontrollable interstate handgun traffic.



We also believe that these legislative proposals are acceptable to a majority of the people in this country. With the polarized state of public opinion on the subject of gun control, it is doubly important to structure laws regulating human endeavor in such a manner that the incentive to comply with the law is maximized and its enforceability is enhanced by its acceptance.

A drastic extension of regulations in this area we believe can pose a real danger of creating substantial illicit traffic in handguns, controlled by organized crime groups, unless the underpinnings of public acceptance accompany the regulations sought.

TABLE 1.—INDEX OF VIOLENT CRIME, UNITED STATES, 1960-73

[Number of offenses]

Year	Violent crimes	Murder	Forcible rape	Robbery	Aggravated assault
1973.....	869, 470	19, 510	51, 000	382, 680	416, 270
1972.....	828, 820	18, 550	46, 480	374, 790	389, 000
1971.....	810, 680	17, 670	41, 940	386, 150	364, 920
1970.....	733, 530	15, 890	37, 690	348, 460	331, 480
1969.....	657, 050	14, 670	36, 880	297, 650	307, 850
1968.....	590, 640	13, 720	31, 410	261, 780	283, 720
1967.....	496, 150	12, 160	27, 410	202, 100	254, 490
1966.....	426, 830	10, 970	25, 620	157, 350	232, 890
1965.....	384, 340	9, 900	23, 230	138, 130	213, 090
1964.....	361, 350	9, 300	21, 250	129, 860	200, 940
1963.....	314, 490	8, 580	17, 510	116, 000	172, 400
1962.....	299, 150	8, 480	17, 410	110, 410	162, 850
1961.....	287, 120	8, 680	17, 080	106, 240	155, 130
1960.....	286, 220	9, 050	17, 050	107, 410	152, 720
Percent of changes, 1960-73.....	+203. 8	+115. 6	+199. 2	+256. 3	+172. 6

TABLE 2.—INDEX OF VIOLENT CRIME, UNITED STATES, 1960-73

[Rate per 100,000 inhabitants]

Year	Violent crimes	Murder	Forcible rape	Robbery	Aggravated assault
1973.....	414. 3	9. 3	24. 3	182. 4	198. 4
1972.....	398. 0	8. 9	22. 3	180. 0	186. 8
1971.....	393. 0	8. 6	20. 3	187. 2	176. 9
1970.....	361. 0	7. 8	18. 6	171. 5	163. 1
1969.....	325. 4	7. 3	18. 3	147. 4	152. 5
1968.....	295. 5	6. 9	15. 7	131. 0	142. 0
1967.....	250. 8	6. 1	13. 9	102. 1	128. 6
1966.....	218. 2	5. 6	13. 1	80. 4	119. 1
1965.....	198. 3	5. 1	12. 0	71. 3	109. 9
1964.....	188. 9	4. 9	11. 1	67. 9	105. 0
1963.....	166. 8	4. 5	9. 3	61. 5	91. 4
1962.....	161. 0	4. 6	9. 4	59. 4	87. 6
1961.....	156. 9	4. 7	9. 3	58. 1	84. 8
1960.....	159. 6	5. 0	9. 5	59. 9	85. 2
Percent of change, 1960-1973.....	+159. 6	+86. 0	+155. 8	+204. 5	+132. 9

TABLE 3.—TOTAL ARREST TRENDS, 1960-73

Offense charged	Violent crimes					
	Total all ages			Under 18 years of age		
	1960	1973	Percent change	1960	1973	Percent change
Total all crimes	3,242,574	4,381,968	+35.1	466,174	1,138,046	+144.1
Total violent crimes	92,997	215,540	+131.8	15,180	52,592	+246.5
Criminal homicide:	4,541	10,629	+134.1	337	1,197	+255.2
a. Murder and nonnegligent manslaughter	1,766	1,860	+5.1	132	216	+63.6
b. Manslaughter by negligence	6,857	13,823	+101.6	1,185	2,753	+132.3
Forcible rape	31,197	83,012	+166.1	7,332	29,336	+299.0
Robbery	50,402	108,076	+114.4	6,306	19,306	+206.2
Aggravated assault						
Total						
Offense charged						
Total all crimes						
Total violent crimes						
Criminal homicide:						
a. Murder and nonnegligent manslaughter						
b. Manslaughter by negligence						
Forcible rape						
Robbery						
Aggravated assault						

TABLE 4.—TOTAL ARREST TRENDS, 1972-73

Offense charged	Violent crimes					
	Total all ages			Under 18 years of age		
	1972	1973	Percent change	1972	1973	Percent change
Total all crimes	5,950,936	6,158,514	+3.5	1,555,288	1,630,722	+4.9
Total violent crimes	255,504	277,116	+8.5	18,334	19,519	+6.5
Criminal homicide:						
a. Murder and nonnegligent manslaughter	12,792	13,837	+8.2	1,382	1,442	+4.3
b. Manslaughter by negligence	2,760	2,793	+1.2	250	327	+30.8
Forcible rape	16,412	18,387	+12.0	3,202	3,632	+13.4
Robbery	94,733	98,869	+4.4	30,227	33,712	+11.5
Aggravated assault	131,567	146,023	+11.0	23,371	24,912	+6.6
Total						
Offense charged						
Total all crimes						
Total violent crimes						
Criminal homicide:						
a. Murder and nonnegligent manslaughter						
b. Manslaughter by negligence						
Forcible rape						
Robbery						
Aggravated assault						

TABLE 5.—DISPOSITION OF PERSONS CHARGED BY THE POLICE, 1973

Offense	Number of persons charged (held for prosecution)	Percent of charged			
		Guilty		Acquitted or dismissed	Referred to juvenile court
		Offense charged	Lesser offense		
Total.....	2, 141, 347	58. 8	4. 9	17. 9	18. 3
Criminal homicide:					
a. Murder and nonnegligent manslaughter.....	3, 234	39. 7	19. 9	29. 1	11. 3
b. Manslaughter by negligence.....	885	36. 2	9. 3	44. 7	9. 8
Forcible rape.....	4, 657	28. 5	13. 0	36. 3	22. 2
Robbery.....	23, 075	29. 6	9. 9	25. 3	35. 1
Aggravated assault.....	38, 756	33. 6	13. 6	35. 9	16. 9

Mr. MACDONALD. We appreciate your having provided us with an opportunity to appear here today and to present our views on the subject of firearms control. At this point, my associates, and I would be glad to attempt to answer any questions which you or members of the subcommittee may have.

Senator BAYH. Thank you, Mr. Macdonald.

You mentioned in the closing part of your statement, categories of persons who are prohibited, "by chapter 44, from shipping, transporting, or receiving firearms in interstate commerce and to whom Federal firearms licensees may not lawfully sell firearms are not in conformity with the proscribed categories of persons under title VII."

Now what kind of persons are we permitting to ship, transport, and receive, that are different from the proscribed categories?

Mr. MACDONALD. Let me ask Mr. Dessler to go into the distinctions.

Mr. DESSLER. There are certain categories of persons that appear in title VII that do not appear in chapter 44. For example, aliens illegally in the country and people who have been dishonorably discharged from the Armed Forces. Those are categories that are proscribed in title VII that are not in chapter 44.

Senator BAYH. What other categories? In other words, illegal aliens, and people who have been dishonorably discharged are not prohibited from shipping, transporting, or receiving firearms in interstate commerce under chapter 44?

Mr. DESSLER. Under chapter 44 criteria, yes, they are not.

Senator BAYH. How significant a factor is that?

Mr. DESSLER. I am not sure.

Senator BAYH. Are those the only two categories?

Mr. DESSLER. There is another category in title VII, I believe, which talks about mental competence, whereas in chapter 44 it talks about "mental defectives". This is a fine distinction, but the courts have made certain distinctions between the two.

Senator BAYH. Have either of those three categories presented a significant enforcement problem? Is it because of the different wordings about the mental defective? Is that the reason we have not really been able to deal with this?

Mr. MACDONALD. Let me ask Mr. Davis to—



Senator BAYH. I realize some of these questions are going to go to Mr. Davis. We will let you all decide. I will just fire the shot and you determine who catches it.

Mr. DAVIS. Mr. Chairman, we have, particularly in recent months, made criminal cases against aliens—illegal aliens in the United States. It seems to be somewhat of a growing problem, but in terms of percentage I would say it is not a major problem.

Of course those categories of individuals who have been “dishonorably discharged,” do become involved in some of our cases. Again, I would not call it a major category of offenders.

Senator BAYH. Is there a direct relationship to the person who may have been dishonorably discharged and the service to society, say, of keeping that person from having a chance to hunt?

Mr. DAVIS. Well, sir, only to the extent that there would be a congressional finding that this is a class of individual who should not possess firearms. I certainly think that there would be a less direct connection between convicted felons, for example, and those individuals who have been dishonorably discharged from the Armed Services.

#### ILLEGAL ALIENS RELATIONSHIP TO GUNRUNNING

Senator BAYH. In the illegal alien cases, have these cases, Mr. Davis, been related to the gunrunning, to any great degree?

Mr. DAVIS. Yes, sir. In some of the cases, their activities were directed toward introducing guns from the United States into other countries—specifically into South American countries, Middle Eastern countries, and the British Isles.<sup>1</sup>

Senator BAYH. From the United States into other countries?

Mr. DAVIS. Yes, sir.

Senator BAYH. That is a problem and I am sure it is one you are responsible for which you are concerned. That is not really the kind of problem we are talking about—where they may be coming from other countries into this one. It is the other way around.

Now have your lawyers investigated this? Have your lawyers investigated the in-commerce features of title VII? Did you feel we do have a constitutional ground to stand on if we remove that language and conform to the recommendation that you make, Mr. Macdonald?

Mr. MACDONALD. I think we feel so.

Mr. FEATHERSTONE. We feel it is certainly a predicate.

Mr. MACDONALD. We have not asked the Attorney General for an opinion on it, but we feel that way.

Senator BAYH. I think perhaps we will take the initiative there, if you have no objection, in asking the Attorney General whether it conforms. Because your recommendation makes good sense, if a fellow is illegally using a firearm, we ought to be able to put him away on the basis of a firearm offense without proving that he brought it in from some other part of the country, I would think. But let us ask the Attorney General for that.

Senator HRUSKA. Is that on the *Bass* case? Or the Interstate Commerce?

Senator BAYH. The *Bass* case. And I will include that and the *Perez* decision as exhibits at this point.

<sup>1</sup> See *International Traffic in Firearms*, p. 435.

## [EXHIBIT No. 9]

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OCTOBER TERM, 1971

Syllabus

404 U. S.

UNITED STATES *v.* BASSCERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE SECOND CIRCUIT

No. 70-71. Argued October 18, 1971—Decided December 20, 1971

Respondent was convicted of possessing firearms in violation of § 1202

(a)(1) of the Omnibus Crime Control and Safe Streets Act, which provides that a person convicted of a felony "who receives, possesses, or transports in commerce or affecting commerce . . . any firearm . . ." shall be punished as prescribed therein. The indictment did not allege and no attempt was made to show that the firearms involved had been possessed "in commerce or affecting commerce," the Government contending that the statute does not require proof of a connection with interstate commerce in individual cases involving possession or receipt. Doubting its constitutionality if the statute were thus construed, the Court of Appeals reversed. *Held*: It is not clear from the language and legislative history of § 1202 (a)(1) whether or not receipt or possession of a firearm by a convicted felon has to be shown in an individual prosecution to have been connected with interstate commerce. The ambiguity of this provision (which is not only a criminal statute but one whose broad construction would define as a federal offense conduct readily proscribed by the States), must therefore be resolved in favor of the narrower reading that a nexus with interstate commerce must be shown with respect to all three offenses embraced by the provision. Pp. 339-351.

434 F. 2d 1296, affirmed.

MARSHALL, J., delivered the opinion of the Court, in which DOUGLAS, BRENNAN (except for Part III), STEWART, and WHITE, JJ., joined. BRENNAN, J., filed a separate statement, *post*, p. 351. BLACKMUN, J., filed a dissenting opinion, in which BURGER, C. J., joined, *post*, p. 351.

*Roger A. Pauley* argued the cause for the United States. With him on the brief were *Solicitor General Griswold*, *Assistant Attorney General Wilson*, *Samuel Huntington*, and *Beatrice Rosenberg*.

*William E. Hellerstein*, by appointment of the Court, 402 U. S. 927, argued the cause for respondent. With him on the brief was *Phylis Skloot Bamberger*.

MR. JUSTICE MARSHALL delivered the opinion of the Court.

Respondent was convicted in the Southern District of New York of possessing firearms in violation of Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U. S. C. App. § 1202 (a). In pertinent part, that statute reads:

"Any person who—

"(1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony . . . and who receives, possesses, or transports in commerce or affecting commerce . . . any firearm shall be fined not more than \$10,000 or imprisoned for not more than two years, or both."<sup>1</sup>

The evidence showed that respondent, who had previously been convicted of a felony in New York State, possessed

<sup>1</sup> Section 1202 (a) reads in full:

"Any person who—

"(1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony, or

"(2) has been discharged from the Armed Forces under dishonorable conditions, or

"(3) has been adjudged by a court of the United States or of a State or any political subdivision thereof of being mentally incompetent, or

"(4) having been a citizen of the United States has renounced his citizenship, or

"(5) being an alien is illegally or unlawfully in the United States, and who receives, possesses, or transports in commerce or affecting commerce, after the date of enactment of this Act, any firearm shall be fined not more than \$10,000 or imprisoned for not more than two years, or both."



on separate occasions a pistol and then a shotgun. There was no allegation in the indictment and no attempt by the prosecution to show that either firearm had been possessed "in commerce or affecting commerce." The Government proceeded on the assumption that § 1202 (a)(1) banned all possessions and receipts of firearms by convicted felons, and that no connection with interstate commerce had to be demonstrated in individual cases.

After his conviction,<sup>2</sup> respondent unsuccessfully moved for arrest of judgment on two primary grounds: that the statute did not reach possession of a firearm not shown to have been "in commerce or affecting commerce," and that, if it did, Congress had overstepped its constitutional powers under the Commerce Clause. 308 F. Supp. 1385. The Court of Appeals reversed the conviction, being of the view that if the Government's construction of the statute were accepted, there would be substantial doubt about the statute's constitutionality. 434 F. 2d 1296. We granted certiorari to resolve a conflict among lower courts over the proper reach of the statute.<sup>3</sup> We affirm the judgment of the court below,

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<sup>2</sup> Respondent was acquitted on another count charging him with carrying a firearm during the commission of a felony (the sale of a narcotic drug), a federal offense under 18 U. S. C. § 924 (c)(2).

<sup>3</sup> At this date, six circuits and numerous district courts have decided the issue. The Government's view was adopted in *United States v. Cabbler*, 429 F. 2d 577 (CA4 1970), cert. denied, 400 U. S. 901; *United States v. Donofrio*, 450 F. 2d 1054 (CA5 1971); *Stevens v. United States*, 440 F. 2d 144 (CA6 1971) (one judge dissenting); *United States v. Synnes*, 438 F. 2d 764 (CA8 1971); *United States v. Daniels*, 431 F. 2d 697 (CA9 1970). The result reached by the Second Circuit in this case has also been reached in *United States v. Harbin*, 313 F. Supp. 50 (ND Ind. 1970); *United States v. Steed*, No. CR 70-57 (WD Tenn., May 11, 1970); *United States v. Phelps*, No. CR 14,465 (MD Tenn., Feb. 10, 1970); *United States v. Francis*, No. CR 12,684 (ED Tenn., Dec. 12, 1969).

but for substantially different reasons.<sup>4</sup> We conclude that § 1202 is ambiguous in the critical respect. Because its sanctions are criminal and because, under the Government's broader reading, the statute would mark a major inroad into a domain traditionally left to the States, we refuse to adopt the broad reading in the absence of a clearer direction from Congress.

# I

Not wishing "to give point to the quip that only when legislative history is doubtful do you go to the statute,"<sup>5</sup> we begin by looking to the text itself. The critical textual question is whether the statutory phrase "in commerce or affecting commerce" applies to "possesses" and "receives" as well as to "transports." If it does, then the Government must prove as an essential element of the offense that a possession, receipt, or transportation was "in commerce or affecting commerce"—a burden not undertaken in this prosecution for possession.

While the statute does not read well under either view, "the natural construction of the language" suggests that the clause "in commerce or affecting commerce" qualifies all three antecedents in the list. *Porto Rico Railway, Light & Power Co. v. Mor*, 253 U. S. 345, 348 (1920). Since "in commerce or affecting commerce" undeniably

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<sup>4</sup>In light of our disposition of the case, we do not reach the question whether, upon appropriate findings, Congress can constitutionally punish the "mere possession" of firearms; thus, we need not consider the relevance, in that connection, of our recent decision in *Perez v. United States*, 402 U. S. 146 (1971). The question whether the definition of "felony" in § 1202 (c)(2) creates a classification violating the Fifth Amendment was not raised in the Government's Petition for Certiorari, and is also not considered here.

<sup>5</sup>Frankfurter, *Some Reflections on the Reading of Statutes*, 47 Col. L. Rev. 527, 543 (1947).

applies to at least one antecedent, and since it makes sense with all three, the more plausible construction here is that it in fact applies to all three. But although this is a beginning, the argument is certainly neither overwhelming nor decisive.<sup>6</sup>

In a more significant respect, however, the language of the statute does provide support for respondent's reading. Undeniably, the phrase "in commerce or affecting commerce" is part of the "transports" offense. But if that phrase applies *only* to "transports," the statute would have a curious reach. While permitting transportation of a firearm unless it is transported "in commerce or affecting commerce," the statute would prohibit all possessions of firearms, and both interstate and intrastate receipts. Since virtually all transportations, whether interstate or intrastate, involve an accompanying possession or receipt, it is odd indeed to argue that on the one hand the statute reaches all possessions and

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<sup>6</sup> Compare *United States v. Standard Brewery, Inc.*, 251 U. S. 210, 218 (1920), with *FTC v. Mandel Brothers, Inc.*, 359 U. S. 385, 389-390 (1959); see also 2 J. Sutherland, *Statutory Construction* § 4921 (3d ed. 1943); K. Llewellyn, *The Common Law Tradition* 527 (1960).

The Government, noting that there is no comma after "transports," argues that the punctuation indicates a congressional intent to limit the qualifying phrase to the last antecedent. But many leading grammarians, while sometimes noting that commas at the end of series can avoid ambiguity, concede that use of such commas is discretionary. See, e. g., B. Evans & C. Evans, *A Dictionary of Contemporary American Usage* 103 (1957); M. Nicholson, *A Dictionary of American-English Usage* 94 (1957); R. Copperud, *A Dictionary of Usage and Style* 94-95 (1964); cf. W. Strunk & E. White, *The Elements of Style* 1-2 (1959). When grammarians are divided, and surely where they are cheerfully tolerant, we will not attach significance to an omitted comma. It is enough to say that the statute's punctuation is fully consistent with the respondent's interpretation, and that in this case grammatical expertise will not help to clarify the statute's meaning.



receipts, and on the other hand outlaws only interstate transportations. Even assuming that a person can "transport" a firearm under the statute without possessing or receiving it, there is no reason consistent with any discernible purpose of the statute to apply an interstate commerce requirement to the "transports" offense alone.<sup>7</sup> In short, the Government has no convincing explanation for the inclusion of the clause "in commerce or affecting commerce" if that phrase only applies to the word "transports." It is far more likely that the phrase was meant to apply to "possesses" and "receives" as well as "transports." As the court below noted, the inclusion of such a phrase "mirror[s] the approach to federal criminal jurisdiction reflected in many other federal statutes."<sup>8</sup>

Nevertheless, the Government argues that its reading is to be preferred because the defendant's narrower interpretation would make Title VII redundant with Title IV of the same Act. Title IV, *inter alia*, makes it a

<sup>7</sup> The Government urges that "transports" includes the act of "causing a firearm to be transported," and therefore would connote an offense separate in some cases from "receives" or "possesses." From this, the Government argues that "Congress might have felt that the broader scope of the term 'transports,' as compared to the terms 'receives' or 'possesses,' justified its qualification by the interstate commerce requirement." Brief for the United States 14-15. The Government's view about the comparative breadth of the various offenses certainly does not follow from its definition of "transports." But beyond that, its argument about what Congress "might have felt" is purely speculative, and finds no support in any arguable purpose of the statute. There is certainly no basis for concluding that Congress was less concerned about the transporting and supplying of guns than their acquisition.

<sup>8</sup> 434 F. 2d, at 1298. See, e. g., 18 U. S. C. § 2421 (prostitution); 18 U. S. C. § 1952 (Travel Act); 18 U. S. C. § 1951 (robbery and extortion); 18 U. S. C. § 1231 (strikebreaking); 18 U. S. C. § 1201 (kidnaping); 18 U. S. C. § 1084 (gambling); 18 U. S. C. § 842 (i) (explosives); 15 U. S. C. § 1 *et seq.* (antitrust); 15 U. S. C. § 77e (securities fraud).

crime for four categories of people—including those convicted of a crime punishable for a term exceeding one year—"to ship or transport any firearm or ammunition in interstate or foreign commerce . . . [or] to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce." 18 U. S. C. §§ 922 (g) and (h). As Senator Long, the sponsor of Title VII, represented to Senator Dodd, the sponsor of Title IV, Title VII indeed does complement Title IV. 114 Cong. Rec. 14774; see also 114 Cong. Rec. 16286. Respondent's reading of Title VII is fully consistent with this view. First, although subsections of the two Titles do address their prohibitions to some of the same people, each statute also reaches substantial groups of people not reached by the other.<sup>9</sup> Secondly, Title VII complements Title IV by punishing a broader class of behavior. Even under respondent's view, a Title VII offense is made out if the firearm was possessed or received "in commerce or affecting commerce"; however, Title IV apparently does not reach possessions or intrastate transactions at all, even those with an interstate commerce nexus, but is

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<sup>9</sup> Title VII limits the firearm-related activity of convicted felons, dishonorable dischargees from the Armed Services, persons adjudged "mentally incompetent," aliens illegally in the country, and former citizens who have renounced their citizenship. See n. 1, *supra*. A felony is defined as "any offense punishable by imprisonment for a term exceeding one year, but does not include any offense (other than one involving a firearm or explosive) classified as a misdemeanor under the laws of a State and punishable by a term of imprisonment of two years or less . . ." 18 U. S. C. App. § 1202 (c)(2).

Title IV reaches persons "under indictment for, or . . . convicted in any court of, a crime punishable by imprisonment for a term exceeding one year"; fugitives from justice; users or addicts of various drugs; persons adjudicated as "mental defective[s] or . . . committed" to a mental institution. 18 U. S. C. §§ 922 (g) and (h).

limited to the sending or receiving of firearms as part of an interstate transportation.<sup>10</sup>

In addition, whatever reading is adopted, Title VII and Title IV are, in part, redundant. The interstate commerce requirement in Title VII minimally applies to transportation. Since Title IV also prohibits convicted criminals from transporting firearms in interstate commerce, the two Titles overlap under both readings. The Government's broader reading of Title VII does not eliminate the redundancy, but simply creates a larger area in which there is no overlap. While the Government would be on stronger ground if its reading were necessary to give Title VII some unique and independent thrust, this is not the case here. In any event, circumstances surrounding the passage of Title VII make plain that Title VII was not carefully molded to complement Title

<sup>10</sup> Title IV, 18 U. S. C. §§ 922 (g) and (h), is a modified and recodified version of 15 U. S. C. §§ 902 (e) and (f) (1964 ed.), 75 Stat. 757, which in turn amended the original statute passed in 1938, 52 Stat. 1250, 1251. Each amendment enlarged the group of people coming within the Act's substantive prohibitions against transportation or receipt of firearms in interstate commerce. The wording of the substantive offense has remained identical, although the original Act had a provision that possession of a firearm "shall be presumptive evidence that such firearm or ammunition was shipped or transported or received [in interstate or foreign commerce]." That presumption was struck down in *Tot v. United States*, 319 U. S. 463 (1943), and the Court there noted:

"[T]he Act is confined to the receipt of firearms or ammunition as a part of interstate transportation and does not extend to the receipt, in an intrastate transaction, of such articles which, at some prior time, have been transported interstate." *Id.*, at 466.

While the reach of Title IV itself is a question to be decided finally some other day, the Government has presented here no learning or other evidence indicating that the 1968 Act changed the prior approach to the "receipt" offense. See, e. g., S. Rep. No. 1097, 90th Cong., 2d Sess., 115 (1968).



IV. Title VII was a last-minute Senate amendment to the Omnibus Crime Control and Safe Streets Act. The Amendment was hastily passed, with little discussion, no hearings, and no report.<sup>11</sup> The notion that it was enacted to dovetail neatly with Title IV rests perhaps on a conception of the model legislative process; but we cannot pretend that all statutes are model statutes. While courts should interpret a statute with an eye to the surrounding statutory landscape and an ear for harmonizing potentially discordant provisions, these guiding principles are not substitutes for congressional law-making. In our view, no conclusion can be drawn from Title IV concerning the correct interpretation of Title VII.

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<sup>11</sup> The Omnibus Crime Control and Safe Streets Act of 1968 started its life as a measure designed to aid state and local governments in law enforcement by means of financial and administrative assistance. See H. R. Rep. No. 488, 90th Cong., 1st Sess. (1967). The bill passed the House on August 8, 1967, and went to the Senate. A similar bill was introduced in the Senate (S. 917) and went to the Committee on the Judiciary, which rewrote it completely. See S. Rep. No. 1097, 90th Cong., 2d Sess., *supra*. The amendments included the much-debated provisions regarding the admissibility of confessions, wiretapping, and state firearms control.

On May 17, 1968, Senator Long introduced on the floor his amendment to S. 917, which he designated Title VII. His introductory remarks set forth the purpose of the amendment. 114 Cong. Rec. 13867-13869. About a week later he explained his amendment once again. There was a brief debate; the reaction was favorable but cautious, with "further thought" and "study" being suggested by several favorably inclined Senators who observed some problems with the bill as drafted. Unexpectedly, however, there was a call for a vote and Title VII passed without modification. See 114 Cong. Rec. 14772-14775. The amendment received only passing mention in the House discussion of the bill, 114 Cong. Rec. 16286, 16298, and never received committee consideration or study in the House either.

Other aspects of the meager legislative history, however, do provide some significant support for the Government's interpretation. On the Senate floor, Senator Long, who introduced § 1202, described various evils that prompted his statute. These evils included assassinations of public figures and threats to the operation of businesses significant enough in the aggregate to affect commerce.<sup>12</sup> Such evils, we note, would be most thoroughly mitigated by forbidding every possession of any firearm by specified classes of especially risky people, regardless of whether the gun was possessed, received, or transported "in commerce or affecting commerce." In addition, specific remarks of the Senator can be read to state that the amendment reaches the mere possession of guns without any showing of an interstate commerce nexus.<sup>13</sup> But Senator Long never specifically says that no connection with commerce need be shown in the individual case. And nothing in his statements explains why, if an interstate commerce nexus is irrelevant in individual cases, the phrase "in commerce or affecting commerce" is in the statute at all.<sup>14</sup> But even if Senator

<sup>12</sup> See 114 Cong. Rec. 13868-13871, 14772-14775.

<sup>13</sup> For example, Senator Long began his floor statement by announcing:

"I have prepared an amendment which I will offer at an appropriate time, simply setting forth the fact that anybody who has been convicted of a felony [or comes within certain other categories] . . . is not permitted to possess a firearm . . . ." 114 Cong. Rec. 13868.

<sup>14</sup> For the same, and additional, reasons, § 1201, which contains the congressional "findings" applicable to § 1202 (a), is not decisive support for the Government. That section reports that:

"The Congress hereby finds and declares that the receipt, possession, or transportation of a firearm by felons, veterans who are discharged under dishonorable conditions, mental incompetents,

Long's remarks were crystal clear to us, they were apparently not crystal clear to his congressional colleagues. Meager as the discussion of Title VII was, one of the few Congressmen who discussed the amendment summarized Title VII as "mak[ing] it a Federal crime to take, possess, or receive a firearm across State lines . . ." 114 Cong. Rec. 16298 (statement of Rep. Pollock).

In short, "the legislative history of [the] Act hardly speaks with that clarity of purpose which Congress supposedly furnishes courts in order to enable them to enforce its true will." *Universal Camera Corp. v. NLRB*, 340 U. S. 474, 483 (1951). Here, as in other cases, the various remarks by legislators "are sufficiently ambiguous insofar as this narrow issue is concerned . . . to invite mutually destructive dialectic," and not much more.

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aliens who are illegally in the country, and former citizens who have renounced their citizenship, constitutes—

"(1) a burden on commerce or threat affecting the free flow of commerce,

"(2) a threat to the safety of the President of the United States and Vice President of the United States,

"(3) an impediment or a threat to the exercise of free speech and the free exercise of a religion guaranteed by the first amendment to the Constitution of the United States, and

"(4) a threat to the continued and effective operation of the Government of the United States and of the government of each State guaranteed by article IV of the Constitution."

The Government argues that these findings would have been "wholly unnecessary" unless Congress intended to prohibit all receipts and possessions of firearms by felons. But these findings of "burdens" and "threats" simply state Congress' view of the constitutional basis for its power to act; the findings do not tell us how much of Congress' perceived power was in fact invoked. That the findings in fact support a statute broader than the one actually passed is suggested by the fact that "in commerce or affecting commerce" does not appear at all in the introductory clause to the "findings," even though § 1202 (a) contains the phrase and concededly reaches only transportation "in commerce or affecting commerce."



*FCC v. Columbia Broadcasting System*, 311 U. S. 132, 136 (1940). Taken together, the statutory materials are inconclusive on the central issue of whether or not the statutory phrase "in commerce or affecting commerce" applies to "possesses" and "receives" as well as "transports." While standing alone, the legislative history might tip in the Government's favor, the respondent explains far better the presence of critical language in the statute. The Government concedes that "the statute is not a model of logic or clarity." Pet. for Cert. 5. After "seiz[ing] every thing from which aid can be derived," *United States v. Fisher*, 2 Cranch 358, 386 (1805) (Marshall, C. J.), we are left with an ambiguous statute.

## II

Given this ambiguity, we adopt the narrower reading: the phrase "in commerce or affecting commerce" is part of all three offenses, and the present conviction must be set aside because the Government has failed to show the requisite nexus with interstate commerce. This result is dictated by two wise principles this Court has long followed.

First, as we have recently reaffirmed, "ambiguity concerning the ambit of criminal statutes should be resolved in favor of lenity." *Rewis v. United States*, 401 U. S. 808, 812 (1971). See also *Ladner v. United States*, 358 U. S. 169, 177 (1958); *Bell v. United States*, 349 U. S. 81 (1955); *United States v. Five Gambling Devices*, 346 U. S. 441 (1953) (plurality opinion for affirmance). In various ways over the years, we have stated that "when choice has to be made between two readings of what conduct Congress has made a crime, it is appropriate, before we choose the harsher alternative, to require that Congress should have spoken in language that is clear and definite." *United States v. Universal C. I. T. Credit Corp.*,

344 U. S. 218, 221-222 (1952). This principle is founded on two policies that have long been part of our tradition. First, "a fair warning should be given to the world in language that the common world will understand, of what the law intends to do if a certain line is passed. To make the warning fair, so far as possible the line should be clear." *McBoyle v. United States*, 283 U. S. 25, 27 (1931) (Holmes, J.).<sup>15</sup> See also *United States v. Cardiff*, 344 U. S. 174 (1952). Second, because of the seriousness of criminal penalties, and because criminal punishment usually represents the moral condemnation of the community, legislatures and not courts should define criminal activity. This policy embodies "the instinctive distaste against men languishing in prison unless the lawmaker has clearly said they should." H. Friendly, Mr. Justice Frankfurter and the Reading of Statutes, in *Benchmarks* 196, 209 (1967). Thus, where there is ambiguity in a criminal statute, doubts are resolved in favor of the defendant. Here, we conclude that Congress has not "plainly and unmistakably," *United States v. Gradwell*, 243 U. S. 476, 485 (1917), made it a federal crime for

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<sup>15</sup> Holmes prefaced his much-quoted statement with the observation that "it is not likely that a criminal will carefully consider the text of the law before he murders or steals . . ." But in the case of gun acquisition and possession it is not unreasonable to imagine a citizen attempting to "[steer] a careful course between violation of the statute [and lawful conduct]," *United States v. Hood*, 343 U. S. 148, 151 (1952). Of course, where there is a state law prohibiting felons from possessing firearms, as in New York State, N. Y. Penal Law § 265.05 (Supp. 1971-1972), it may be unreal to argue that there are notice problems under the federal law. There are many States, however, that do not have their own laws prohibiting felons from possessing firearms. See Geisel, Roll, & Wettick, The Effectiveness of State and Local Regulation of Handguns: A Statistical Analysis, 1969 Duke L. J. 647, 652-653. Since ex-offenders in these States are limited only by the federal gun control laws, the notice problem of that law may be quite real.

a convicted felon simply to possess a gun absent some demonstrated nexus with interstate commerce.

There is a second principle supporting today's result: unless Congress conveys its purpose clearly, it will not be deemed to have significantly changed the federal-state balance.<sup>16</sup> Congress has traditionally been reluctant to define as a federal crime conduct readily denounced as criminal by the States.<sup>17</sup> This congressional policy is rooted in the same concepts of American federalism that have provided the basis for judge-made doctrines. See, e. g., *Younger v. Harris*, 401 U. S. 37 (1971). As this Court emphasized only last Term in *Rewis v. United States*, *supra*, we will not be quick to assume that Congress has meant to effect a significant change in the sensitive relation between federal and state criminal jurisdiction. In traditionally sensitive areas, such as legislation affecting the federal balance, the requirement of clear statement assures that the legislature has in fact faced, and intended to bring into issue, the critical matters involved in the judicial decision. In *Rewis*, we declined to accept an expansive interpretation of the Travel Act. To do so, we said then, "would alter sensitive federal-state relationships [and] could over-extend limited federal police resources." While we noted there that "[i]t is not for us to weigh the merits of these factors," we went on to conclude that "the fact

<sup>16</sup> *Apez Hosiery Co. v. Leader*, 310 U. S. 469, 513 (1940); *United States v. Five Gambling Devices*, 346 U. S. 441, 449-450 (1953) (plurality opinion); *FTC v. Bunte Bros., Inc.*, 312 U. S. 349, 351, 354-355 (1941); Frankfurter, Some Reflections on the Reading of Statutes, 47 Col. L. Rev. 527, 539-540 (1947). Cf. *Auto Workers v. Wisconsin Board*, 351 U. S. 266, 274-275 (1956); *Palmer v. Massachusetts*, 308 U. S. 79, 83-84 (1939); *Leiter Minerals, Inc. v. United States*, 352 U. S. 220, 225-226 (1957).

<sup>17</sup> H. Hart & A. Sacks, *The Legal Process: Basic Problems in the Making and Application of Law* 1241 (tent. ed. 1958).



that they are not even discussed in the legislative history . . . strongly suggests that Congress did not intend that [the statute have the broad reach]." 401 U. S., at 812. In the instant case, the broad construction urged by the Government renders traditionally local criminal conduct a matter for federal enforcement and would also involve a substantial extension of federal police resources. Absent proof of some interstate commerce nexus in each case, § 1202 (a) dramatically intrudes upon traditional state criminal jurisdiction. As in *Rewis*, the legislative history provides scanty basis for concluding that Congress faced these serious questions and meant to affect the federal-state balance in the way now claimed by the Government. Absent a clearer statement of intention from Congress than is present here, we do not interpret § 1202 (a) to reach the "mere possession" of firearms.

### III

Having concluded that the commerce requirement in § 1202 (a) must be read as part of the "possesses" and "receives" offenses, we add a final word about the nexus with interstate commerce that must be shown in individual cases. The Government can obviously meet its burden in a variety of ways. We note only some of these. For example, a person "possesses . . . in commerce or affecting commerce" if at the time of the offense the gun was moving interstate or on an interstate facility, or if the possession affects commerce. Significantly broader in reach, however, is the offense of "receiv[ing] . . . in commerce or affecting commerce," for we conclude that the Government meets its burden here if it demonstrates that the firearm received has previously traveled in interstate commerce.<sup>18</sup> This is

<sup>18</sup> This reading preserves a significant difference between the "receipt" offenses under Title IV and Title VII. See *supra*, at 342-343.

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BLACKMUN, J., dissenting

not the narrowest possible reading of the statute, but canons of clear statement and strict construction do "not mean that every criminal statute must be given the narrowest possible meaning in complete disregard of the purpose of the legislature." *United States v. Bramblett*, 348 U. S. 503, 510 (1955). We have resolved the basic uncertainty about the statute in favor of the narrow reading, concluding that "in commerce or affecting commerce" is part of the offense of possessing or receiving a firearm. But, given the evils that prompted the statute and the basic legislative purpose of restricting the firearm-related activity of convicted felons, the readings we give to the commerce requirement, although not all narrow, are appropriate. And consistent with our regard for the sensitive relation between federal and state criminal jurisdiction, our reading preserves as an element of all the offenses a requirement suited to federal criminal jurisdiction alone.

The judgment is

*Affirmed.*

MR. JUSTICE BRENNAN joins the judgment of the Court and the opinion except for Part III. No question of the quantum of evidence necessary to establish the Government's *prima facie* case is before the Court and he would await a case properly presenting that question before deciding it.

MR. JUSTICE BLACKMUN, with whom THE CHIEF JUSTICE joins, dissenting.

I cannot join the Court's opinion and judgment. Five of the six United States courts of appeals that have passed upon the issue presented by this case have decided it adversely to the position urged by the respondent here. *United States v. Cabbler*, 429 F. 2d 577 (CA4 1970), cert. denied, 400 U. S. 901; *United States v. Mullins*,

432 F. 2d 1003 (CA4 1970); *United States v. Donofrio*, 450 F. 2d 1054 (CA5 1971); *Stevens v. United States*, 440 F. 2d 144 (CA6 1971) (one judge dissenting); *United States v. Synnes*, 438 F. 2d 764 (CA8 1971); *United States v. Wiley*, 438 F. 2d 773 (CA8 1971); *United States v. Taylor*, 438 F. 2d 774 (CA8 1971); *United States v. Daniels*, 431 F. 2d 697 (CA9 1970); *United States v. Crow*, 439 F. 2d 1193 (CA9 1971). Only the Second Circuit stands opposed.<sup>1</sup>

1. The statute, 18 U. S. C. App. § 1202 (a), when it speaks of one "who receives, possesses, or transports in commerce or affecting commerce," although arguably ambiguous and, as the Government concedes, "not a model of logic or clarity,"<sup>2</sup> is clear enough. The structure of the vital language and its punctuation make it refer to one who receives, to one who possesses, and to one who transports in commerce. If one wished to say that he would welcome a cat, would welcome a dog, or would welcome a cow that jumps over the moon, he would likely say "I would like to have a cat, a dog, or a cow that jumps over the moon." So it is here.

2. The meaning the Court implants on the statute is justified only by the addition and interposition of a comma after the word "transports." I perceive no warrant for this judicial transfiguration.

<sup>1</sup> Unappealed district court decisions are in conflict. Those upholding the Government's position include *United States v. Davis*, 314 F. Supp. 1161 (ND Miss. 1970); *United States v. Vicary*, No. CR 44,205 (ED Mich., June 29, 1970) (*en banc*); *United States v. Childress*, No. 8039-R (ED Va., Jan. 6, 1969); *United States v. Boggs*, No. 8138 (Wyo., June 17, 1970). Those opposed include *United States v. Harbin*, 313 F. Supp. 50 (ND Ind. 1970); *United States v. Steed*, No. CR 70-57 (WD Tenn., May 11, 1970); *United States v. Phelps*, No. CR 14,465 (MD Tenn., Feb. 10, 1970); *United States v. Francis*, No. CR 12,684 (ED Tenn., Dec. 12, 1969).

<sup>2</sup> Pet. for Cert. 5.



3. In the very same statute the phrase "after the date of enactment of this Act" is separated by commas and undeniably modifies each of the preceding words, "receives," "possesses," and "transports." Obviously, then, the draftsman—and the Congress—knew the use of commas for phrase modification. We should give effect to the only meaning attendant upon that use.

4. The specific finding in 18 U. S. C. App. § 1201<sup>a</sup> clearly demonstrates that Congress was attempting to reach and prohibit every possession of a firearm by a felon; that Congress found that such possession, whether interstate or intrastate, affected interstate commerce; and that Congress did not conclude that intrastate possession was a matter of less concern to it than interstate possession. That finding was unnecessary if Congress also required proof that each receipt or possession of a firearm was in or affected interstate or foreign commerce.

5. Senator Long's explanatory comments reveal clearly the purpose, the intent, and the extent of the legislation:

"I have prepared an amendment which I will offer at an appropriate time, simply setting forth the fact that anybody who has been convicted of a felony . . . is not permitted to *possess* a firearm . . . .

"It might be well to analyze, for a moment, the logic involved. When a man has been convicted of a felony, unless—as this bill sets forth—he has been expressly pardoned by the President and the pardon states that the person is to be permitted to *possess* firearms in the future, that man would have no right

<sup>a</sup> § 1201. Congressional findings and declaration.

"The Congress hereby finds and declares that the receipt, possession, or transportation of a firearm by felons . . . constitutes—

"(1) a burden on commerce or threat affecting the free flow of commerce . . . ."

to *possess* firearms. He would be punished criminally if he is found in *possession* of them." 114 Cong. Rec. 13868 (emphasis supplied).

"So Congress simply finds that the *possession* of these weapons by the wrong kind of people is either a burden on commerce or a threat that affects the free flow of commerce.

"You cannot do business in an area, and you certainly cannot do as much of it and do it as well as you would like, if in order to do business you have to go through a street where there are burglars, murderers, and arsonists armed to the teeth against innocent citizens. So the threat certainly affects the free flow of commerce." 114 Cong. Rec. 13869 (emphasis supplied).

"What the amendment seeks to do is to make it unlawful for a firearm—be it a handgun, a machine-gun, a long-range rifle, or any kind of firearm—to be in the *possession* of a convicted felon who has not been pardoned and who has therefore lost his right to *possess* firearms. . . . It also relates to the transportation of firearms.

"Clauses 1–5 describe persons who, by their actions, have demonstrated that they are dangerous, or that they may become dangerous. Stated simply, they may not be trusted to *possess* a firearm without becoming a threat to society. This title would apply both to hand guns and to long guns.

"All of these murderers had shown violent tendencies before they committed the crime for which they are most infamous. They should not have been permitted to *possess* a gun. Yet, there is no Federal law which would deny *possession* to these undesirables.

"The killer of Medgar Evers, the murderer of the three civil rights workers in Mississippi, the defendants who shot Captain Lemuel Penn (on a highway while he was driving back to Washington after completion of reserve Military duty) would all be free under present Federal law to acquire another gun and repeat those same sorts of crimes in the future.

"So, under Title VII, every citizen could *possess* a gun until the commission of his first felony. Upon his conviction, however, Title VII would deny every assassin, murderer, thief and burglar of *the right to possess* a firearm in the future except where he has been pardoned by the President or a State Governor and has been expressly authorized by his pardon to possess a firearm.

"It has been said that Congress lacks the power to outlaw *mere possession* of weapons. . . .

". . . The important point is that this legislation demonstrates that *possession* of a deadly weapon by the wrong people can be controlled by Congress, without regard to where the police power resides under the Constitution.

"Without question, the Federal Government does have power to control *possession* of weapons where such *possession* could become a threat to interstate commerce . . . .

"State gun control laws where they exist have proven inadequate to bar *possession* of firearms from those most likely to use them for unlawful purposes. . . .

"Nor would Title VII impinge upon the rights of citizens generally to *possess* firearms for legitimate and lawful purposes. It deals solely with those



who have demonstrated that they cannot be trusted to *possess* a firearm—those whose prior acts—mostly voluntary—have placed them outside of our society. . . .

“ . . . I am convinced that we have enough constitutional power to prohibit these categories of people from *possessing*, receiving, or transporting a firearm. . . .

“This amendment would provide that a convicted felon who participates in one of these marches and *is carrying a firearm* would be violating the law. . . .”  
114 Cong. Rec. 14773–14774 (emphasis supplied).

One cannot detect in these remarks any purpose to restrict or limit the type of possession that was being considered for proscription.

6. The Court's construction of § 1202 (a), limiting its application to interstate possession and receipt, shrinks the statute into something little more than a duplication of 18 U. S. C. §§ 922 (g) and (h). I cannot ascribe to Congress such a gesture of nonaccomplishment.

I thus conclude that § 1202 (a) was intended to and does reach all possessions and receipts of firearms by convicted felons, and that the Court should move on and decide the constitutional issue present in this case.

## [EXHIBIT NO. 10]

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OCTOBER TERM, 1970

Opinion of the Court

402 U. S.

## PEREZ v. UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE SECOND CIRCUIT

No. 600. Argued March 22, 1971—Decided April 26, 1971

Petitioner was convicted of "loan sharking" activities, i. e., unlawfully using extortionate means in collecting and attempting to collect an extension of credit, in violation of Title II of the Consumer Credit Protection Act, and his conviction was affirmed on appeal. He challenges the constitutionality of the statute on the ground that Congress has no power to control the local activity of loan sharking. *Held*: Title II of the Consumer Credit Protection Act is within Congress' power under the Commerce Clause to control activities affecting interstate commerce and Congress' findings are adequate to support its conclusion that loan sharks who use extortionate means to collect payments on loans are in a class largely controlled by organized crime with a substantially adverse effect on interstate commerce. Pp. 149-157.

426 F. 2d 1073, affirmed.

DOUGLAS, J., delivered the opinion of the Court, in which BURGER, C. J., and BLACK, HARLAN, BRENNAN, WHITE, MARSHALL, and BLACKMUN, JJ., joined. STEWART, J., filed a dissenting opinion, *post*, p. 157.

*Albert J. Krieger* argued the cause for petitioner. With him on the briefs was *Joel M. Finkelstein*.

*Solicitor General Griswold* argued the cause for the United States. With him on the brief were *Assistant Attorney General Wilson*, *Beatrice Rosenberg*, and *Marshall Tamor Golding*.

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The question in this case is whether Title II of the Consumer Credit Protection Act, 82 Stat. 159, 18 U. S. C. § 891 *et seq.* (1964 ed., Supp. V), as construed and applied to petitioner, is a permissible exercise by Congress of its powers under the Commerce Clause of the Consti-

tution. Petitioner's conviction after trial by jury and his sentence were affirmed by the Court of Appeals, one judge dissenting. 426 F. 2d 1073. We granted the petition for a writ of certiorari because of the importance of the question presented. 400 U. S. 915. We affirm that judgment.

Petitioner is one of the species commonly known as "loan sharks" which Congress found are in large part under the control of "organized crime."<sup>1</sup> "Extortionate credit transactions" are defined as those characterized by the use or threat of the use of "violence or other criminal means" in enforcement.<sup>2</sup> There was ample evidence showing petitioner was a "loan shark" who used the threat of violence as a method of collection. He loaned

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<sup>1</sup> Section 201 (a) of Title II contains the following findings by Congress:

"(1) Organized crime is interstate and international in character. Its activities involve many billions of dollars each year. It is directly responsible for murders, willful injuries to person and property, corruption of officials, and terrorization of countless citizens. A substantial part of the income of organized crime is generated by extortionate credit transactions.

"(2) Extortionate credit transactions are characterized by the use, or the express or implicit threat of the use, of violence or other criminal means to cause harm to person, reputation, or property as a means of enforcing repayment. Among the factors which have rendered past efforts at prosecution almost wholly ineffective has been the existence of exclusionary rules of evidence stricter than necessary for the protection of constitutional rights.

"(3) Extortionate credit transactions are carried on to a substantial extent in interstate and foreign commerce and through the means and instrumentalities of such commerce. Even where extortionate credit transactions are purely intrastate in character, they nevertheless directly affect interstate and foreign commerce."

<sup>2</sup> Section 891 of 18 U. S. C. (1964 ed., Supp. V) provides in part:

"(6) An extortionate extension of credit is any extension of credit with respect to which it is the understanding of the creditor and the debtor at the time it is made that delay in making repayment or failure to make repayment could result in the use of violence or



money to one Miranda, owner of a new butcher shop, making a \$1,000 advance to be repaid in installments of \$105 per week for 14 weeks. After paying at this rate for six or eight weeks, petitioner increased the weekly payment to \$130. In two months Miranda asked for an additional loan of \$2,000 which was made, the agreement being that Miranda was to pay \$205 a week. In a few weeks petitioner increased the weekly payment to \$330. When Miranda objected, petitioner told him about a customer who refused to pay and ended up in a hospital. So Miranda paid. In a few months petitioner increased his demands to \$500 weekly which Miranda paid, only to be advised that at the end of the week petitioner would need \$1,000. Miranda made that payment by not paying his suppliers; but, faced with a \$1,000 payment the next week, he sold his butcher shop. Petitioner pursued Miranda, first making threats to Miranda's wife and then telling Miranda he could have him castrated. When Miranda did not make more payments, petitioner said he was turning over his collections to people who would not be nice but who would put him in the hospital if he did not pay. Negotiations went on, Miranda finally saying he could only pay \$25 a week. Petitioner said that was not enough, that Miranda should steal or sell drugs if necessary to get the money to pay the loan, and that if he went to jail it would be better than going to a hospital with a broken back or legs. He added, "I could have sent you to the hospital, you and your family, any moment I want with my people."

Petitioner's arrest followed. Miranda, his wife, and an employee gave the evidence against petitioner who did

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other criminal means to cause harm to the person, reputation, or property of any person.

"(7) An extortionate means is any means which involves the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person."

not testify or call any witnesses. Petitioner's attack was on the constitutionality of the Act, starting with a motion to dismiss the indictment.

The constitutional question is a substantial one.

Two "loan shark" amendments to the bill that became this Act were proposed in the House—one by Congressman Poff of Virginia, 114 Cong. Rec. 1605-1606 and another one by Congressman McDade of Pennsylvania. *Id.*, at 1609-1610.

The House debates include a long article from the New York Times Magazine for January 28, 1968, on the connection between the "loan shark" and organized crime. *Id.*, at 1428-1431. The gruesome and stirring episodes related have the following as a prelude:

"The loan shark, then, is the indispensable 'money-mover' of the underworld. He takes 'black' money tainted by its derivation from the gambling or narcotics rackets and turns it 'white' by funneling it into channels of legitimate trade. In so doing, he exacts usurious interest that doubles the black-white money in no time; and, by his special decrees, by his imposition of impossible penalties, he greases the way for the underworld takeover of entire businesses." *Id.*, at 1429.

There were objections on constitutional grounds. Congressman Eckhardt of Texas said:

"Should it become law, the amendment would take a long stride by the Federal Government toward occupying the field of general criminal law and toward exercising a general Federal police power; and it would permit prosecution in Federal as well as State courts of a typically State offense.

"I believe that Alexander Hamilton, though a federalist, would be astonished that such a deep entrenchment on the rights of the States in performing

their most fundamental function should come from the more conservative quarter of the House." *Id.*, at 1610.

Senator Proxmire presented to the Senate the Conference Report approving essentially the "loan shark" provision suggested by Congressman McDade, saying:

"Once again these provisions raised serious questions of Federal-State responsibilities. Nonetheless, because of the importance of the problem, the Senate conferees agreed to the House provision. Organized crime operates on a national scale. One of the principal sources of revenue of organized crime comes from loan sharking. If we are to win the battle against organized crime we must strike at their source of revenue and give the Justice Department additional tools to deal with the problem. The problem simply cannot be solved by the States alone. We must bring into play the full resources of the Federal Government." *Id.*, at 14490.

The Commerce Clause reaches, in the main, three categories of problems. First, the use of channels of interstate or foreign commerce which Congress deems are being misused, as, for example, the shipment of stolen goods (18 U. S. C. §§ 2312-2315) or of persons who have been kidnaped (18 U. S. C. § 1201). Second, protection of the instrumentalities of interstate commerce, as, for example, the destruction of an aircraft (18 U. S. C. § 32), or persons or things in commerce, as, for example, thefts from interstate shipments (18 U. S. C. § 659). Third, those activities affecting commerce. It is with this last category that we are here concerned.

Chief Justice Marshall in *Gibbons v. Ogden*, 9 Wheat. 1, 195, said:

"The genius and character of the whole government seem to be, that its action is to be applied to all the external concerns of the nation, and to



those internal concerns which affect the States generally; but not to those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere, for the purpose of executing some of the general powers of the government. The completely internal commerce of a State, then, may be considered as reserved for the State itself."

Decisions which followed departed from that view; but by the time of *United States v. Darby*, 312 U. S. 100, and *Wickard v. Filburn*, 317 U. S. 111, the broader view of the Commerce Clause announced by Chief Justice Marshall had been restored. Chief Justice Stone wrote for a unanimous Court in 1942 that Congress could provide for the regulation of the price of intrastate milk, the sale of which, in competition with interstate milk, affects the price structure and federal regulation of the latter. *United States v. Wrightwood Dairy Co.*, 315 U. S. 110. The commerce power, he said, "extends to those activities intrastate which so affect interstate commerce, or the exertion of the power of Congress over it, as to make regulation of them appropriate means to the attainment of a legitimate end, the effective execution of the granted power to regulate interstate commerce." *Id.*, at 119.

*Wickard v. Filburn*, 317 U. S. 111, soon followed in which a unanimous Court held that wheat grown wholly for home consumption was constitutionally within the scope of federal regulation of wheat production because, though never marketed interstate, it supplied the need of the grower which otherwise would be satisfied by his purchases in the open market.<sup>3</sup> We said:

"[E]ven if appellee's activity be local and though it may not be regarded as commerce, it may still,

<sup>3</sup> That decision has been followed: *Beckman v. Mall*, 317 U. S. 597; *Bender v. Wickard*, 319 U. S. 731; *United States v. Haley*, 358 U. S. 644; *United States v. Ohio*, 385 U. S. 9.

whatever its nature, be reached by Congress if it exerts a substantial economic effect on interstate commerce, and this irrespective of whether such effect is what might at some earlier time have been defined as 'direct' or 'indirect.'" 317 U. S., at 125.

In *United States v. Darby*, 312 U. S. 100, the decision sustaining an Act of Congress which prohibited the employment of workers in the production of goods "for interstate commerce" at other than prescribed wages and hours, a *class of activities* was held properly regulated by Congress without proof that the particular intrastate activity against which a sanction was laid had an effect on commerce. A unanimous Court said:

"Congress has sometimes left it to the courts to determine whether the intrastate activities have the prohibited effect on the commerce, as in the Sherman Act. It has sometimes left it to an administrative board or agency to determine whether the activities sought to be regulated or prohibited have such effect, as in the case of the Interstate Commerce Act, and the National Labor Relations Act, or whether they come within the statutory definition of the prohibited Act, as in the Federal Trade Commission Act. And sometimes Congress itself has said that a particular activity affects the commerce, as it did in the present Act, the Safety Appliance Act and the Railway Labor Act. In passing on the validity of legislation of the *class* last mentioned the only function of courts is to determine whether the particular activity regulated or prohibited is within the reach of the federal power." (Italics added.) *Id.*, at 120-121.

That case is particularly relevant here because it involved a criminal prosecution, a unanimous Court hold-

ing that the Act was "sufficiently definite to meet constitutional demands." *Id.*, at 125. Petitioner is clearly a member of the class which engages in "extortionate credit transactions" as defined by Congress<sup>4</sup> and the description of that class has the required definiteness.

It was the "class of activities" test which we employed in *Atlanta Motel v. United States*, 379 U. S. 241, to sustain an Act of Congress requiring hotel or motel accommodations for Negro guests. The Act declared that "any inn, hotel, motel, or other establishment which provides lodging to transient guests' affects commerce *per se*." *Id.*, at 247. That exercise of power under the Commerce Clause was sustained.

"[O]ur people have become increasingly mobile with millions of people of all races traveling from State to State; . . . Negroes in particular have been the subject of discrimination in transient accommodations, having to travel great distances to secure the same; . . . often they have been unable to obtain accommodations and have had to call upon friends to put them up overnight . . . and . . . these conditions had become so acute as to require the listing of available lodging for Negroes in a special guidebook. . . ." *Id.*, at 252-253.

In a companion case, *Katzenbach v. McClung*, 379 U. S. 294, we ruled on the constitutionality of the restaurant provision of the same Civil Rights Act which regulated the restaurant "if . . . it serves or offers to serve interstate travelers or a substantial portion of the food which it serves . . . has moved in commerce." *Id.*, at 298. Apart from the effect on the flow of food in commerce to restaurants, we spoke of the restrictive

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<sup>4</sup> See n. 2, *supra*.



effect of the exclusion of Negroes from restaurants on interstate travel by Negroes.

"[T]here was an impressive array of testimony that discrimination in restaurants had a direct and highly restrictive effect upon interstate travel by Negroes. This resulted, it was said, because discriminatory practices prevent Negroes from buying prepared food served on the premises while on a trip, except in isolated and unkempt restaurants and under most unsatisfactory and often unpleasant conditions. This obviously discourages travel and obstructs interstate commerce for one can hardly travel without eating. Likewise, it was said, that discrimination deterred professional, as well as skilled, people from moving into areas where such practices occurred and thereby caused industry to be reluctant to establish there." *Id.*, at 300.

In emphasis of our position that it was the *class of activities* regulated that was the measure, we acknowledged that Congress appropriately considered the "total incidence" of the practice on commerce. *Id.*, at 301.

Where the *class of activities* is regulated and that *class* is within the reach of federal power, the courts have no power "to excise, as trivial, individual instances" of the class. *Maryland v. Wirtz*, 392 U. S. 183, 193.

Extortionate credit transactions, though purely intrastate, may in the judgment of Congress affect interstate commerce. In an analogous situation, Mr. Justice Holmes, speaking for a unanimous Court, said: "[W]hen it is necessary in order to prevent an evil to make the law embrace more than the precise thing to be prevented it may do so." *Westfall v. United States*, 274 U. S. 256, 259. In that case an officer of a state bank which was a member of the Federal Reserve System

issued a fraudulent certificate of deposit and paid it from the funds of the state bank. It was argued that there was no loss to the Reserve Bank. Mr. Justice Holmes replied, "But every fraud like the one before us weakens the member bank and therefore weakens the System." *Id.*, at 259. In the setting of the present case there is a tie-in between local loan sharks and interstate crime.

The findings by Congress are quite adequate on that ground. The McDade Amendment in the House, as already noted, was the one ultimately adopted. As stated by Congressman McDade it grew out of a "profound study of organized crime, its ramifications and its implications" undertaken by some 22 Congressmen in 1966-1967. 114 Cong. Rec. 14391. The results of that study were included in a report, *The Urban Poor and Organized Crime*, submitted to the House on August 29, 1967, which revealed that "organized crime takes over \$350 million a year from America's poor through loan-sharking alone." See 113 Cong. Rec. 24460-24464. Congressman McDade also relied on *The Challenge of Crime in a Free Society*, A Report by the President's Commission on Law Enforcement and Administration of Justice (February 1967) which stated that loan sharking was "the second largest source of revenue for organized crime," *id.*, at 189, and is one way by which the underworld obtains control of legitimate businesses. *Id.*, at 190.

The Congress also knew about New York's Report, *An Investigation of the Loan Shark Racket* (1965). See 114 Cong. Rec. 1428-1431. That report shows the loan shark racket is controlled by organized criminal syndicates, either directly or in partnership with independent operators; that in most instances the racket is organized into three echelons, with the top underworld "bosses" providing the money to their principal "lieutenants,"

who in turn distribute the money to the "operators" who make the actual individual loans; that loan sharks serve as a source of funds to bookmakers, narcotics dealers, and other racketeers; that victims of the racket include all classes, rich and poor, businessmen and laborers; that the victims are often coerced into the commission of criminal acts in order to repay their loans; that through loan sharking the organized underworld has obtained control of legitimate businesses, including securities brokerages and banks which are then exploited; and that "[e]ven where extortionate credit transactions are purely intrastate in character, they nevertheless directly affect interstate and foreign commerce."<sup>5</sup>

Shortly before the Conference bill was adopted by Congress a Senate Committee had held hearings on loan sharking and that testimony was made available to members of the House. See 114 Cong. Rec. 14390.

The essence of all these reports and hearings was summarized and embodied in formal congressional findings. They supplied Congress with the knowledge that the loan shark racket provides organized crime with its second most lucrative source of revenue, exacts millions from the pockets of people, coerces its victims into the commission of crimes against property, and causes the takeover by racketeers of legitimate businesses. See generally 114 Cong. Rec. 14391, 14392, 14395, 14396.

We have mentioned in detail the economic, financial, and social setting of the problem as revealed to Congress. We do so not, to infer that Congress need make particularized findings in order to legislate. We relate the history of the Act in detail to answer the impassioned plea of petitioner that all that is involved in loan

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<sup>5</sup> See n. 1, *supra*.



sharking is a traditionally local activity. It appears, instead, that loan sharking in its national setting is one way organized interstate crime holds its guns to the heads of the poor and the rich alike and syphons funds from numerous localities to finance its national operations.

*Affirmed.*

MR. JUSTICE STEWART, dissenting.

Congress surely has power under the Commerce Clause to enact criminal laws to protect the instrumentalities of interstate commerce, to prohibit the misuse of the channels or facilities of interstate commerce, and to prohibit or regulate those intrastate activities that have a demonstrably substantial effect on interstate commerce. But under the statute before us a man can be convicted without any proof of interstate movement, of the use of the facilities of interstate commerce, or of facts showing that his conduct affected interstate commerce. I think the Framers of the Constitution never intended that the National Government might define as a crime and prosecute such wholly local activity through the enactment of federal criminal laws.

In order to sustain this law we would, in my view, have to be able at the least to say that Congress could rationally have concluded that loan sharking is an activity with interstate attributes that distinguish it in some substantial respect from other local crime. But it is not enough to say that loan sharking is a national problem, for all crime is a national problem. It is not enough to say that some loan sharking has interstate characteristics, for any crime may have an interstate setting. And the circumstance that loan sharking has an adverse impact on interstate business is not a distinguishing attribute, for interstate business suffers from

almost all criminal activity, be it shoplifting or violence in the streets.

Because I am unable to discern any rational distinction between loan sharking and other local crime, I cannot escape the conclusion that this statute was beyond the power of Congress to enact. The definition and prosecution of local, intrastate crime are reserved to the States under the Ninth and Tenth Amendments.

## HOW SUCCESSFUL HAS THE 1968 ACT BEEN?

Senator BAYH. Let me look to some different questions, if I might please, gentlemen.

One of the major purposes of the 1968 Firearms Act, and certainly one of my major goals as chairman of this subcommittee—and I think regardless of the rather distinguishable differences at both ends of the pole as to whether to legislate or not to legislate that exists in the minds of our subcommittee members—would be to support legislation that we knew could increase the effectiveness of keeping firearms out of the hands of certain people who have a greater propensity to use them against society.

Now the 1968 Act was designed to deny access to certain groups, such as minors and convicted felons, persons adjudicated as “mentally defective” that we referred to a moment ago.

How successful has the act been in reaching that goal?

Mr. MACDONALD. Mr. DAVIS, do you want to comment on that?

Mr. DAVIS. Mr. Chairman, I think if you looked at the situation as it existed before 1968, and as it exists after the act, that it certainly has been more effective than the situation that existed prior to its passage.

Very obviously there are loopholes in the act whereby felons can acquire handguns. Obviously they cannot now do it, legally. I think we have a much greater ability to determine when people have unlawfully acquired handguns that we had before, because of the improved recordkeeping system.

So that in my view at least, it has been effective. But there are some areas, obviously, where it has not.

Senator BAYH. Mr. Davis, let me ask you to respond to a survey of ATF that I am sure you are familiar. Of 144 licensed dealers in Greenville County, S.C., last year, it found that 10 percent of the purchasers—some 215—had arrest records, and 3 percent were convicted felons.

Now here we have a statute that says “thou shalt not sell to convicted felons; thou shalt not sell to minors; thou shalt not sell to mentally defectives”——

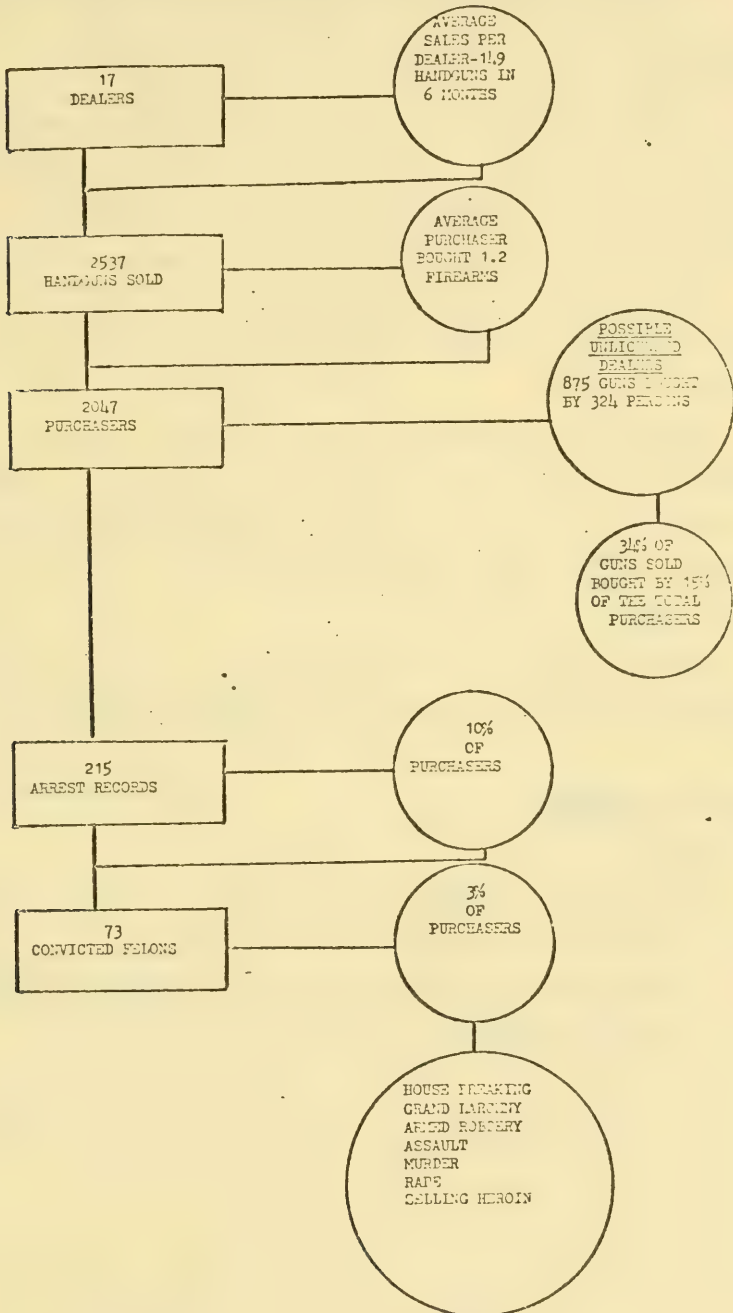
Senator HRUSKA. Or, to “nonresidents.”

Senator BAYH. And nonresidents. And here you have this kind of response. If we could plug up those loopholes, it seems to me, we would have made a significant step forward.

[Testimony continued on p. 108.]



## SURVEY OF HANDGUN SALES BY LICENSED DEALERS IN GREENVILLE, S.C. (5/1/74 - 10/31/74)



SURVEY OF FIREARMS DEALER RECORDS IN GREENVILLE, SOUTH CAROLINABACKGROUND

The Bureau of Alcohol, Tobacco and Firearms began this ongoing project in November, 1974. Greenville County, South Carolina was selected as the survey site because of the heavy illicit firearms traffic in and through that area, as evidenced by past investigations.

The population of Greenville County, given as 240,546 by the 1970 census, is concentrated primarily in the city of Greenville and its immediate environs.

Greenville County has 144 licensed dealers who sell handguns. These dealers sell approximately 8,000 handguns annually, with about 5,500 of these firearms being sold by twelve dealers, including two pawnshops. Most of these sales take place in or just outside the City of Greenville.

South Carolina has no law requiring handgun purchasers to obtain a permit, nor are police records routinely checked on handgun purchasers.

INTENT AND OBJECTIVES1. Intent

- (a) To determine the extent of felon purchase of handguns from licensed firearms dealers by making false statements on Treasury Form 4473, Firearms Transaction Record, in violation of the Gun Control Act of 1968.

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- (c) To develop workable procedures and jurisdictional guidelines in cooperation with state and local authorities for investigating and prosecuting these cases.

## 2. Objectives

- (a) To determine if such a project implemented nationally would have a meaningful impact on reducing the number of handguns in possession of criminals.
- (b) To determine the additional resources needed to implement the project nationally, if warranted.

## PROCEDURES

### 1. Copying of Firearms Transaction Records

Early in November, 1974, special agents copied Firearms Transaction Records at seventeen licensed locations in and around Greenville. These records show a total of 2,537 handguns sold, to 2,047 individual purchasers. The sales occurred between May 1 and October 31, 1974.

### 2. Name card preparation

Personnel at Bureau Headquarters prepared a card on each purchaser, showing name and date of birth. These were sent to the FBI Identification Division for a criminal record search.

### 3. Multiple purchasers

Collation of handgun purchases from the various stores revealed that some purchasers had bought more than one handgun in the six-month period surveyed. Amounts ranged from two to thirty firearms. As many purchases by one person can



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be an indication of possible unlicensed dealing, these names were sent to Greenville special agents for investigation. This part of the project revealed that 324 individuals (15% of the purchasers) had bought 875 handguns (34% of handguns sold).

#### 4. Arrest Records

Of the 2,047 names submitted to the FBI for record checks, we found that 215 persons had arrest records in FBI files. These represent approximately 10% of all handgun purchasers. These names were sent to Greenville special agents for investigation and appropriate action.

#### RESULTS

Investigations in Greenville, although not yet complete, indicate that of the 215 purchasers with arrest records, approximately seventy-three have been convicted of felonies. This represents about 3% of the total number of handgun purchasers. Some of the crimes committed by this group are housebreaking and grand larceny; armed robbery; assault; murder; rape; and distribution of heroin.

#### PLANS

Prosecution will be sought against those convicted felon purchasers who committed crimes recently enough and of such a nature as to warrant prosecution under the Gun Control Act. Preliminary indications are that about sixteen persons will be prosecuted.

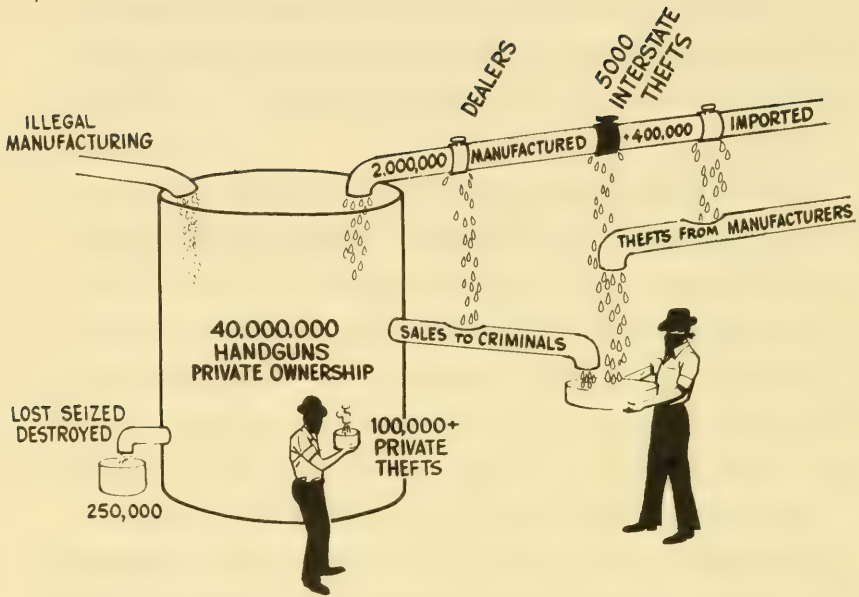
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Approximately fifty-seven convicted felons will not be prosecuted. This group consists of those who were not represented by counsel at the time of their previous conviction; those who committed crimes so far in the past or of such a nature as to not warrant prosecution under the Act; those who were juveniles at the time of the previous felony, etc.

Special Agents will take appropriate action in the case of felons not to be prosecuted, which can include seeking abandonment of the firearms, seizure of the firearm, warning, etc.

All felons will be interviewed, and special agents will attempt to answer certain questions concerning the felon and his purchase of the handgun; e.g., motive for purchase; nature of previous felony; age of felon at time of conviction and purchase; type of store where firearm was purchased, and others. We will attempt to use the information gained in our analysis of this project. The findings may assist us in performing more selective checks of purchaser arrest records, thereby making the best of our limited manpower and resources.

We plan to expand this project to another location similar to Greenville County, to verify that the results in Greenville are typical of that type of area.





EXPLANATION OF DRAWING SHOWING LEAKS IN PLUMBING

This picture depicts the various methods by which handguns manufactured and imported for private consumption are diverted into the hands of criminals.

We estimate that approximately 40,000,000 handguns are in the hands of the public. ATF records show that about 2,000,000 more are manufactured yearly and 400,000 are imported. The criminal obtains his handguns from these manufactured, imported and privately owned firearms in various ways.

An unknown number of handguns are stolen from manufacturers. About 5,000 handguns annually are stolen from interstate shipments, judging by reports received from the firearms and transportation industries. Many firearms are sold to criminals, legally or illegally, by licensed dealers and by the public.

The picture also indicates that there is an unknown amount of firearms illegally manufactured and distributed. Some of these also reach the criminal.

Many handguns are stolen from the public every year, and enter the criminal arsenal. Following is the manner in which the approximate number of "private thefts" of handguns per year was computed:

1. NCIC (National Crime Information Center) personnel advised that 211,750 guns per year are entered into NCIC.
2. NCIC estimates that approximately 75% (158,812) of these are stolen guns.
3. ATF figures show that approximately 5,000 handguns are stolen from interstate shipments yearly. These appear in the NCIC total of stolen guns, so must therefore be subtracted, leaving 153,812 stolen guns entered into NCIC yearly.
4. An ATF survey of thefts from interstate shipment revealed that approximately 70% of all guns stolen from such shipments are handguns. The 70% figure is used to determine the proportion of handguns stolen from private owners.

153,812  
      .70      

107,668.40 handguns stolen  
                   from other than  
                   interstate ship-  
                   ments per year.

-3-

On the other side of the ledger, we estimate that about 250,000 handguns per year leave private hands, having been seized, destroyed or lost. It is probable that some of these "lost" firearms are actually stolen, and therefore are in the possession of criminals.

## ***APPLICATION OF MANPOWER TO FIREARMS***

	DIVISION STATUS UNDER IRS					BUREAU STATUS			
	1968	1969	1970	1971	1972	1973	1974	1975 (EST.)	1976 (EST.)
<b>TOTAL AGENT MANPOWER AVAILABLE</b>	985	1047	1211	1389	1630	1622	1576	1570	1558
<b>AGENT MANPOWER APPLIED TO FIREARMS</b>	214	442	700	810	911	952	1058	1082	1105
<b>INSPECTOR MAN- POWER APPLIED TO FIREARMS *</b>	—	—	—	—	—	3	34	65	112

\* Decision to transfer compliance activity to regulatory enforcement

[Testimony continued from p. 98.]

#### LACK OF ATF PERSONNEL TO INVESTIGATE DEALERS

Mr. MACDONALD. Let me say just a word to that. That really it is studies such as that that cause us to address ourselves to the dealership problem. There are so many people categorized as "dealers" in this country, that ATF, under its present budget, investigates only about 10 percent of those people who are not applying for a new license in any given year. They do manage to investigate most of the people who are applying for a new license, so we can either ask for a lot more money and get a lot more people and try to leave the dealer population as it is; or we can try to shrink the dealer population down to those people who are meaningfully engaging in the business, segregating out those people who are in peripheral aspects of the business, and then address ourselves to those on a more concentrated basis.

Senator BAYH. I think you will find the subcommittee more than willing to work with you to see if we can find some meaningful recategorizations of licenses.

I suggest to you, Mr. Macdonald, that that does not go to the question. Even if you had different categories, unless you can demonstrate that the bulk of those 215 sales to people who had arrest records were by disreputable dealers it misses the point. These could well be legitimate store operations where a person goes in, shows a driver's license, walks out with a .38 or a .45 and then goes and sticks up a bank.

How do we get to that problem?

Mr. MACDONALD. Those are dealers of various sorts who have not been examined, prior to this intensive survey by ATF. That is one reason why we think that when this intensive survey was finally addressed to them, this is what we came up with.

Senator BAYH. Maybe I am not articulating the question very carefully. Let me try again.

Let us assume that you change your licensing procedure. All right? What is there in the present law to keep John Jones—who has just been paroled in Indiana—from buying a handgun in Indiana, from a sophisticated shop that meets your proposed A-plus criteria?

Mr. MACDONALD. There is a 4473 that he fills out and swears he is not a former felon.

Senator BAYH. Should one assume that that is going to be much of a deterrent?

Mr. MACDONALD. That is the problem. That is why we are trying to—

Senator BAYH. What do you recommend about that?

I know this is a matter of some concern to those who oppose any kind of firearm regulations. Am I accurate in that most felons now are recorded in the various concerned States; that we have a rather sophisticated interchange of information whereby the FBI and other law enforcement officials pick up somebody for auto theft in Port-



land, Oreg., and determine whether that person is a felon or fugitive, say from Orlando, Fla.?

#### COULD WAITING PERIOD PROVIDE DETERMINATIVE FELON CHECK?

In the handgun sales area that we are talking about, is there some way we could provide legitimate dealers with a waiting period before the weapon could be sold to allow at least an FBI or other check to determine whether that person is a felon?

MR. FEATHERSTONE. I certainly think that would be possible with fingerprints.

Senator BAYH. I am not talking about fingerprints. I am talking about names.

MR. FEATHERSTONE. Yes; I think that would be possible. He could use a false name, of course, with false identification.

Senator BAYH. Yes; but right now you do not have to use a false name and false identification, do you?

MR. FEATHERSTONE. It is quite often done. It is not absolutely necessary, but it is quite often done.

Senator BAYH. Is it necessary? Let us assume something that I suggest will never happen, that I am a felon. Can I not take my driver's license, with my name or my picture as exists in some places, walk into your shop—a legitimate, very respected firearms dealer, meeting A-plus, new, revised licensing criteria—and buy a sophisticated weapon today, even if I had just been discharged yesterday?

MR. MACDONALD. If you are willing to lie, I guess that is about the size of it.

Senator BAYH. I recognize that people lie, and I understand that they could use phony documentation which is certainly much more difficult to come by, particularly where States require photographs. Could we not provide some type of a cooling-off period? Do not some States now, as far as the purchase of a handgun, by State law require a cooling period, for other reasons? Because there is less evidence of using this against a spouse, or a friend, or a neighbor that you are angry with if you have to wait for 2 or 3 days. Plus it gives local authorities a chance to look at the record?

Does that kind of thing make sense?

MR. MACDONALD. Let Mr. Davis address himself to that, but I think it might make sense if the State government, in the interim, actually checks into the background of the individual.

#### QUESTION OF FEDERAL OR STATE RECORD CHECK

MR. DAVIS. Mr. Chairman, if you installed a waiting period, under Federal law—and of course the obvious question is, as Secretary Macdonald said, who would check into the record background of the individuals making the purchase, if the Federal Government was going to make it, it would more than likely be sent through the Federal Bureau of Investigation for a name check, as we did in the Greenville project.

Of course, this was after the fact. On the other hand, if the State government is responsible for making the check before the gun can

be released, then in my experience it would depend a great deal upon how faithful and how thoroughly the State reacts to this.

There are a number of waiting periods around the country, as you have suggested. In some cases they are very effectively checked. In other cases, the waiting period is so short that it is not physically possible to make a check. In any event, the check is made only as to the records of that State.

In no period that I know of is the waiting period sufficiently long that the State authorities make a name check with the Federal Bureau of Investigation.

Senator BAYH. How long a period of time is required to do that?

Mr. DAVIS. Sir, I would think that a 2-week period would be adequate.

Senator BAYH. How long does it take to make a check with the FBI now, relative to felons who are involved in other kinds of activities? Suppose you are a chief of police in Los Angeles and you apprehend somebody. How long does it take for you to find out that the person was a felon in Indianapolis?

Mr. DAVIS. Sir, it would obviously not take you that long.

Senator BAYH. We are talking about a matter of hours, are we not?

Mr. DAVIS. I think so; yes. Depending to some extent, of course, on whether you had his fingerprints that would be submitted to the Federal Bureau of Investigation to determine if, in fact, actually this was the individual by that name.

Now I assume we are not talking about requiring gun purchasers to be fingerprinted at the time they apply to make a purchase of a gun. But, in most cases, when a person is in custody by the police, they do submit his fingerprints to the Federal Bureau of Investigation to insure that he is not operating under an alias; that his actual name will be determined and the record connected with his actual name.

So there are somewhat different situations. In the one case, you would have only his name, perhaps his address, and physical description. That is a true name check.

On the other hand, if you have a fingerprint check, it would be against the classification of his prints.

Senator HRUSKA. Would the Senator yield?

Senator BAYH. Yes.

Senator HRUSKA. Would it be out of the way to require that the dealer ask for a driver's license which readily identifies him and can be checked easily? Would that be in order?

#### DRIVER'S LICENSE ACCEPTABLE IDENTIFICATION

Mr. DAVIS. Yes, sir, we certainly, even today, on the 4473, accept driver's license. Unfortunately there are still States in the United States that do not require a picture on the driver's license. So, therefore, they are much more easily forged or misused.

Senator HRUSKA. Would that not show up, though, in the criminal information center here in Washington for convictions or a felonious record? The driver's license would have enough information in it to identify him as to address, as to his age, and the like.

Mr. DAVIS. Yes, sir, that is assuming, however, that he has not stolen the driver's license or used somebody else's. I am assuming now the situation where his picture does not appear. It would be very easy for him to borrow a driver's license of a friend that he knows has a clean record, or to steal one, or to perhaps forge one.

But certainly in the case where the picture appears on the driver's license, that does insure in most cases that he is the person—that he is the rightful owner of the driver's license. Therefore, it would be a good basis for making an inquiry.

Senator BAYH. If someone were going to steal my driver's license, they had better be close to 6 feet tall and have blue eyes. That is somewhat of a limiting factor, is it not?

Mr. DAVIS. Yes, sir, and I guess it falls in the same category as credit cards, that they are stolen out of men's locker rooms or in other situations, and of course are used illegally.

I understand it is a big problem.

Senator BAYH. The fact of the matter is that Congress, with very good intentions, placed proscriptions on certain categories of individuals which we felt might have a greater propensity for misusing firearms. As I understand it, currently, age is the only criteria that is actually checked.

Dealers look at a driver's license not to determine whether somebody is mentally deranged or is a felon, but to see how old they are. Is that not, from a practical enforcement standpoint, what happens?

Mr. DAVIS. Yes, sir. However, on the 4473 he is required to record the address that is reflected on the means of identification that he has provided, his name, address, and of course a physical description, also appears on the 4473. But, age certainly is one of the factors that the dealer is required to consider.

Senator BAYH. Mr. Davis, in the enforcement area, how many incidents do you have of dealers who refused to sell firearms because the person who was purchasing improperly filled out the form—as far as address and the incidentals contained therein?

Is that really a significant deterrent?

Mr. DAVIS. Well, sir, obviously I think it would depend to a great extent on the integrity of the dealer. He is required to see that the form is filled out properly. If it is not filled out properly, then he would be under an obligation to refuse to sell the firearm.

Senator BAYH. I would put in the record, if I might, without objection, at this point, the firearms transaction record that we are talking about. It contains worthwhile questions, if we could just be assured that they are answered honestly, to provide a better chance for checking them.

## [EXHIBIT NO. 11]

DEPARTMENT OF THE TREASURY BUREAU OF ALCOHOL, TOBACCO AND FIREARMS <b>FIREARMS TRANSACTION RECORD</b> <b>PART I - INTRA-STATE OVER-THE-COUNTER</b>			TRANSFEROR'S TRANS- ACTION NO.	
<i>NOTE: Please read and carefully follow instructions on reverse. Prepare an original only.</i>				
<b>SECTION A - TO BE COMPLETED BY TRANSFEEE OR BUYER</b>				
1. TRANSFEEE'S (Buyer's) NAME (Last, First, Middle) (Mr., Mrs., Miss.)		2. HEIGHT	3. WEIGHT	4. RACE
5. RESIDENCE ADDRESS (No., Street, City, State, Zip Code)		6. DATE OF BIRTH	7. PLACE OF BIRTH	
8. CERTIFICATION OF TRANSFEEE (Buyer) - An untruthful answer may subject you to criminal prosecution. Each question must be answered with a "yes or a "no" inserted in the box at the right of the question:				
a. Are you under indictment or information in any court for a crime punishable by imprisonment for a term exceeding one year?		d. Are you an unlawful user of, or addicted to, marihuana, or a depressant, stimulant, or narcotic drug?		
b. Have you been convicted in any court of a crime punishable by imprisonment for a term exceeding one year? (Note: The actual sentence given by the judge does not matter—a yes answer is necessary if the judge could have given a sentence of more than one year.)		e. Have you ever been adjudicated mentally defective or have you ever been committed to a mental institution?		
		f. Have you been discharged from the Armed Forces under dishonorable conditions?		
		g. Are you an alien illegally in the United States?		
c. Are you a fugitive from justice?		h. Are you a person who, having been a citizen of the United States, has renounced his citizenship?		
I hereby certify that the answers to the above are true and correct. I understand that a person who answers any of the above questions in the affirmative is prohibited by Federal law from purchasing and/or possessing a firearm. I also understand that the making of any false oral or written statement or the exhibiting of any false or misrepresented identification with respect to this transaction is a crime punishable as a felony.				
TRANSFEEE'S (Buyer's) SIGNATURE			DATE	
<b>SECTION B - TO BE COMPLETED BY TRANSFEROR OR SELLER</b>				
THE PERSON DESCRIBED IN SECTION A:		<input type="checkbox"/> IS KNOWN TO ME <input type="checkbox"/> HAS IDENTIFIED HIMSELF TO ME IN THE FOLLOWING MANNER		
9. TYPE OF IDENTIFICATION (Driver's License, etc.)		10. NUMBER ON IDENTIFICATION		
On the basis of: (1) the statements in Section A; (2) the verification of identity noted in Section B; and (3) the information in the current list of Published Ordinances, it is my belief that it is not unlawful for me to sell, deliver or otherwise dispose of the firearm described below to the person identified in Section A.				
11. TYPE (Pistol, rifle, etc.)	12. MODEL	13. CALIBER OR GAUGE	14. SERIAL NO.	
15. MANUFACTURER (and importer, if any)				
16. TRADE/CORPORATE NAME AND ADDRESS OF TRANSFEROR (Seller) (Hand stamp may be used)			17. FEDERAL FIREARMS LICENSE NO.	
18. TRANSFEROR'S (Seller's) SIGNATURE		19. TRANSFEROR'S TITLE		20. TRANSACTION DATE



**NOTICE:**

Under 18 U.S.C. Chapter 44 and Title VII of Public Law 90-351, 18 U.S.C. Appendix 1201-1203, as amended, firearms may not be sold to or received by certain persons. The information and certification on this form are designed so that a person licensed under Chapter 44 may determine if he may lawfully sell or otherwise dispose of a firearm to the person identified in Section A, and to alert the transferee (buyer) of certain restrictions on the receipt and possession of firearms.

**DEFINITIONS**

1. *Intra-State Over-the-Counter Transaction*— The sale or other disposition of a firearm by the transferor (seller) to a transferee (buyer), who is a resident of the State in which the transferor's business is located, occurring on the transferor's business premises.
2. *Published Ordinances*— The publication containing those State laws and local ordinances relevant to the enforcement of Chapter 44 of Title 18, U.S.C., which is annually published in the Federal Register and distributed to each Federal firearms licensee by the Director, Bureau of Alcohol, Tobacco and Firearms.

**INSTRUCTIONS**

1. Only one ATF Form 4473, Part I, is required for each intra-State over-the-counter transaction.
2. All signatures required on this form must be in ink. All other entries on the form must be in ink or be typewritten.
3. The transferee (buyer) of a firearm will, in every instance, complete Section A of the form and certify (sign) that the answers are true and correct.

4. When the transferee (buyer) of a firearm is a corporation, company, association, partnership or other such business entity, an officer authorized to act on behalf of the business will sign the certification in Section A of the form and attach a written statement, executed under the penalty of perjury, stating

- (a) that the firearm is being acquired for the use of and will be the property of that business entity, and
- (b) the name and address of that business entity.

5. The transferor (seller) of a firearm will, in every instance, complete Section B of the form.

6. If more than one firearm is involved, the identification required by Section B, Items 11 through 15, must be provided for each firearm. The identification of the firearms transferred in a transaction which covers more than one weapon may be on a separate sheet of paper, which must be attached to the form covering the transaction.

7. The transferor (seller) of the firearm is responsible for determining the lawfulness of the transaction and for keeping proper records of the transaction. Consequently, the transferor should be familiar with the provisions of the Gun Control Act of 1968 (U.S.C., Title 18, Chapter 44) and Title VII, Unlawful Possession or Receipt of Firearms, (82 Stat. 197), and Part 178, Commerce in Firearms and Certain Ammunition, Title 26, Code of Federal Regulations.

8. Upon completion of the firearm transaction, the transferor (seller) must make a part of his permanent firearms records the form recording that transaction and any supporting documents. Forms 4473, Part I, and any supporting documents must be filed either chronologically by date of transaction, alphabetically by name of transferee (buyer), or numerically, by transaction number if the transferor assigns transaction numbers to the forms.

Senator BAYH. The great majority of the dealers, first of all, want to obey the law. They do not want to be selling firearms to people who would misuse them.

But, right now, I think we really are hard put to test what actually happens. I doubt that we want to put the individual dealer in the position of making that check. If we could find some other way of verifying that, I think we would be closer to success.

I have had a number of complaints. Here we have this form. Let us say I am running a gun and rod shop in southern Indiana, or western Nebraska, and I meticulously see that these forms are filled out.

What happens to these forms?

Mr. DAVIS. Yes, sir. The dealer is required to maintain them on the dealer premises. They are subject to examination by agents and inspectors of the Bureau of Alcohol, Tobacco and Firearms.

Senator BAYH. For how long a period of time must I keep this transaction?

Mr. DAVIS. You must keep them as long as you are in business. If you terminate the business, these are required to be forwarded to the Bureau of Alcohol, Tobacco and Firearms.

Senator BAYH. If I am the average firearm dealer in either of the locales mentioned, how often are these forms inspected?

#### FORMS INSPECTED ON AVERAGE OF 10 YEARS

Mr. DAVIS. Well, sir; to some extent it would depend on your record of compliance with the law. But, if you were the average dealer, at the present rate that we are able to make compliance inspections, it would probably be about once every 10 years.

Senator BAYH. Once every 10 years? How long after the normal gun transaction would that inspection occur?

Mr. DAVIS. Well, sir, assuming he was in continuing business, then the earliest one would be about 10 years prior, and hopefully the later ones the day before.

Senator BAYH. Sort of an average of 5 years?

Mr. DAVIS. Yes, the average length of purchase would run 5 years.

Senator BAYH. Have you, as one who is charged with inspection—and I know you are dedicated in fulfilling your responsibility—have you given any thought to what can be done to improve this situation?

I have talked to dealers who have cabinets filled with these forms that never go any place. They are not accessible even to the local sheriff until after the fact. Such as the Bremmer situation with George Wallace. You could return to Wisconsin and find out that information. But, if on that information there was a fact that would lead the local law enforcement official to know that the handgun had been purchased by a felon, or a mentally deranged person it could help. They do not have access to it now.

Senator HRUSKA. Would the Senator yield? Do you not, as a matter of fact, have a gun tracing service?

Mr. DAVIS. Yes, sir. And I might say, Senator, I could point out that last year, for example, we traced over 33,000 guns used in the commission of crimes in the United States. Many of the traces were for State and local law enforcement officers, and of course this is

why the 4473 form is so important, we feel, in connection with guns used in crimes. It is the only link that we have between the manufacturer, wholesaler, and dealer, and the first purchaser.

Many times, by finding out who the first purchaser was through these forms, it is possible for our investigators to wind up or to identify the person who actually used it in a crime. And of course the gun, having been purchased, may be used at any time thereafter, even though it may be some years.

#### PRESERVE PRESENT SYSTEM OR COMPUTERIZE

That is why we feel that the preservation of the 4473 is so important. Now there are really only two alternatives, as I see it. One of them is to continue the present system where the dealer retains them on his premises. Or, the second alternative, is for those to be forwarded to the Bureau of Alcohol, Tobacco and Firearms, where they could be computerized and thereby cutting out the present system which we have to phone each step in gun tracing to determine where the gun was sold and who purchased it.

So those appear to me to be the only feasible alternatives.

Senator BAYH. Your tracing procedure, which I am familiar with, is an after-the-fact procedure, is it not?

Mr. DAVIS. Yes, in every case. It is, in effect, a gun which has been used in a crime. Now, there are cases, of course, where a crime has been committed and no gun is recovered, but there is an individual who is a strong suspect. Now, it is possible to go to gun dealers in a given area and canvass all of them and maybe, if you are lucky, you will find that this man in fact did buy a gun 3 days before or a week before and so forth. But, yes, it is after the fact.

Senator BAYH. Is there anything to keep the Secretary from requiring that the bottom half of this form or a duplicate be forwarded to Washington and computerized to provide the kind of immediate recall that could curb these sales? I hope we can explore this, there may be all kinds of advantages. It would be a decided improvement if we could learn whether an individual was a felon before the handgun sale. At least if, after the fact, that information was cranked in so that you would know that John Doe, at 223 Elm Street, bought a handgun last week, you could find that out and immediately alert the law enforcement officers to whip out to Elm Street and see what is happening after a crime was reported.

#### WOULD REQUIRE DEPARTMENT POLICY DECISION

Mr. DAVIS. Yes, sir.

To respond to the first part of your question, our chief counsel informs us that there is nothing in the present law that would prevent the Bureau of Alcohol, Tobacco and Firearms from implementing regulations which would require a firearms dealer to send information to the Bureau on a day-to-day or periodic basis about the firearms he sells.

This we have considered to be de facto registration, even though limited registration. It would probably, I am sure, require a departmental policy decision.



Senator BAYH. This goes to making that act of the dealer a more responsible one. Most dealers are responsible. Most of them would like to keep felons from buying handguns and would like to examine that driver's license and form to see whether the facts there and the facts on the form and the track record of the individual match up. But if they know from practical experience that nothing ever happens to those forms—that they go in a back closet someplace—it seems to me only normal if they take a ho-hum approach. It is currently just some bureaucratic regulation, redtape, because there is no meaningful effort in trying to crank that information into the law enforcement system.

Could you give some attention to that, please, and make a recommendation to the committee. If for reasons that might seem appropriate to you, you would rather not make recommendations, I would like to have an assessment as to what would be involved; what would be the cost involved; how long it would take to implement it, what reasonable reporting timeframe we might have so we could make it work.<sup>1</sup>

Do we treat a person who wants to purchase a box of .22 ammunition the same way we would treat a felon who goes into a firearms establishment?

Mr. DAVIS. No, sir, not exactly.

If he purchases ammunition, at the present time, the only thing necessary is that his name and address be recorded in a book maintained by the ammunition dealer. In other words, the ammunition purchaser would not have to fill out a firearms transaction record, which is restricted to the purchase of guns.

Senator BAYH. But he has to be recorded if he does purchase a gun?

Mr. DAVIS. Yes, he does.

Senator BAYH. Let me ask you, from your standpoint of enforcement, just how important is that .22 ammunition section? How much time and effort are we spending there, for what results, as far as stopping crime?

It is a very great irritant to a lot of people who have legitimate uses for .22's, as you know.

What returns are we getting on investment?

Mr. DAVIS. Yes, sir.

I think we are on record to the extent that the sale of ammunition has not been proven to be a very effective enforcement tool. Obviously they have no serial numbers or other identifying features beyond the fact of the brand name of the producer of the ammunition; a box of ammunition or an individual shell cannot be associated with the purchaser. There is no particular way, unless there might be some small evidence if he purchased that particular kind a few days before. So, we have had a very limited number of cases in which a suspect was identified or the evidence against him was fortified through ammunition records.

Senator HRUSKA. May I ask, Mr. Chairman, what is the situation with regard to shotgun shells?

<sup>1</sup> See subsequent information, p. 228.



Mr. DAVIS. Senator, in the case of the kind of ammunition, including the shotguns shells, which is not usable in handguns, there is no record kept of the sale.

Senator HRUSKA. Is there not an exemption on them?

Mr. DAVIS. Yes, sir.

Senator HRUSKA. But the exemption did not include .22 rimfire cartridges?

Mr. DAVIS. Yes, sir, that is correct; .22 ammunition being interchangeable in rifles and pistols, then they are not exempted. And at the present time, there is a recordkeeping requirement.

Senator HRUSKA. Is there any limitation on quantity?

Mr. DAVIS. No, sir, there is no limitation on the quantity, as to ammunition—or, as far as that goes, to guns. So long as you are legally qualified, you can buy—

Senator HRUSKA. A case, two cases, six cases?

Mr. DAVIS. Yes, sir; or 50 guns.

Mr. MACDONALD. I think you have to qualify that by the fact that if you are a Greenville, S.C., dealer and someone comes in who is living in Greenville, S.C. and wants to buy two cases of handguns, that raises a suspicion in the average person's mind that he is, himself, dealing with a dealer in fact. And if that dealer is not licensed, I think he takes a certain risk that he is violating the law by selling to an unlicensed dealer.

#### DEALER MAY LEGALLY SELL ANY AMOUNT OF HANDGUNS

Senator BAYH. What risk is he taking? Is there anything in the law right now that keeps me, as a licensed dealer, from selling 100 handguns to someone?

Mr. DAVIS. No, sir.

As the dealer or as the purchaser, assuming again you are not otherwise disqualified from making the purchase, you have violated no law if the purchaser in turn—which you would presume he is going to do in that quantity—if he turns around and, as we call it, sells those guns on the street, then he has become engaged in the business of a firearms dealer without being federally licensed and therefore would have violated the law.

And if I may comment, Mr. Chairman, that we have published regulations in the Federal Register recently which would require that firearms dealers report to ATF the multiple sale of handguns; that is, the sale of more than one gun at the same time or more than one gun during 5 consecutive days. Therefore, he will be provided—this will go into effect on July 1—he will be provided with a pre-addressed, simple form on which he merely identifies the purchaser's name and address and the number and kind of guns he purchases. We hope, by this device, to deter the mass purchase of handguns—this would apply only to handguns—by those people who would then turn around and unlawfully sell them.

And, of course, the individual who has a legitimate need for more than one handgun could easily be checked out, probably without even realizing that an inquiry had been made.

Senator BAYH. But even with that form or that report—which I assume would be treated differently than the present report, it will

be sent in and then accorded some special significance—even with that, there is nothing illegal now about a firearms dealer selling large numbers of handguns to any one person; nor is there anything illegal about the act of purchasing large numbers of handguns.

MR. DAVIS. Well, sir, again, with the presumption that the purchaser is otherwise qualified under the law, there would be nothing illegal in making the purchase. There is a possibility, if the dealer in fact, knew that this person was going to resell those guns, there may be some other area of the law which would apply, maybe as a conspirator or as an aider and abettor. But at least under the gun control laws there would be nothing illegal.

Senator BAYH. All right, the answer is no, is it not?

MR. DAVIS. Yes, sir.

Senator BAYH. What we are trying to do is find out the strengths and weaknesses of this act. Some talk much about new firearms legislation, let us look at what we have and see if maybe it is not doing the job.

Let us look at another closely related area.

#### SALES OF HANDGUNS BY INDIVIDUALS

Is there anything in the law now which makes it illegal for me, as a citizen who is not in one of those categories proscribed from purchasing firearms, from going into your store and buying a hand weapon; going home and selling it to my father-in-law, who does fit into one of those categories, whose purchase from a dealer is illegal?

MR. DAVIS. No, sir, there is no prohibition against the sale—by sale, we mean casual sale—of handguns between individuals. It does not matter—the only restriction would be that if you knew he was not a resident of that State, then it would be illegal. But that would be the only restriction placed on the sale or transfer of weapons between individuals.

Senator BAYH. Is that not one of the biggest loopholes under the law? It is not illegal for me, as an individual? This allows, it seems to me, the wrong persons to have ready access. Why bother to risk stealing a weapon? If you have a felon who has just come out of the “big house” who wants to commit a felony, he can simply go to a relative and say, Sam, go in there and buy a handgun; here is the money. The relative buys it. There is nothing illegal. He sells it to the felon. There is nothing illegal about it—and the felon has the best gun in the town.

MR. DAVIS. Yes, sir, there is no question that this represents a gap in the law. We frequently run into cases of that kind where a proscribed individual sometimes will give another individual \$5 to go in and purchase a handgun. And they fill out the form, bring it outside and turn it over to them and give him \$5 profit over the cost of the weapon.

Senator BAYH. What do you recommend?

MR. MACDONALD. I think we could address ourselves to that issue.

Senator BAYH. Why don't you?

MR. MACDONALD. As a part of the interstate commerce problem.

Senator BAYH. Why do you have reservations to say that the loophole ought to be tightened and make it illegal to sell, on an indi-

vidual basis, to the same proscribed categories of people that now apply to dealers?

Mr. MACDONALD. I do not believe we have any reservations in that regard, sir.

Senator BAYH. I see no reason why you should.

Mr. MACDONALD. There is a problem of enforcement.

#### ENFORCEMENT ALTERNATIVES FOR SALES BY INDIVIDUALS

Mr. DAVIS. I might say that there are a number of alternatives available, and that would be helpful to the committee.

One of them, of course, is to require that an individual only dispose of weapons through a licensed dealer. This would then get the gun back in the commercial channels, into the record systems. And of course a 4473 would have to be filled out and so forth, so that you would again reintroduce it into the record system; it would be accountable. And those proscriptions that are in the law would apply to the dealer. In other words, in effect, if I wished to sell my gun to you—this is one way it could happen. Both of us would go to the dealer and maybe pay him a small fee for effecting the transfer between the two of us.

Senator BAYH. That would mean I could not sell a weapon to my son.

Mr. DAVIS. The law obviously could make exceptions for that type of situation, but essentially, yes. One, he would be under age.

Senator BAYH. I am not talking about underage now; I am talking about the normal kind of transaction that might occur in the family, which really does not pose a problem. How do you minimize that inconvenience and yet to the rather obvious shortcoming now where a person can be enlisted by a former felon, about to participate in another felony, to go into a gunshop and provide the instruments necessary to commit the felony?

Now, that, it seems to me, is an obvious loophole.

Mr. FEATHERSTONE. Senator, it would be illegal for the felon to possess or receive that weapon.

Senator BAYH. Yes, I know that; it is illegal for a felon to commit the felony he is about to commit, too.

Mr. FEATHERSTONE. The person who got the gun for him could be an aider and abettor to that crime.

Senator BAYH. Not unless he knows that there is a felony about to be committed.

Mr. FEATHERSTONE. If he knows, he is in the prohibited class of persons.

Senator BAYH. Show me a section of the law that covers that.

Mr. FEATHERSTONE. I say it is illegal for the felon to receive or possess the gun.

Senator BAYH. But there is nothing illegal for a person to sell a gun to a felon.

Mr. FEATHERSTONE. I am saying if he aids and abets the possession by the felon of the gun it may be a crime.

Mr. MACDONALD. In other words, he is saying, I think, if he knows the man is a felon, he is going to be an aider and abettor. If he does not know it, then it is very difficult to proscribe it by statute and



criminally punish the gentleman, unless you want to hold all sellers, whether they are dealers or not, up to some standard of conduct. And that may be a solution; that is one we have not really addressed ourselves to.

Senator BAYH. That aider-and-abettor theory may be technically correct; legally, it would be a tough one to prosecute.

Mr. FEATHERSTONE. In your example, it was the father-in-law, and you would probably know he was a felon; so he could be a coconspirator or an aider and abettor.

Senator BAYH. Please give thought to some of the alternatives, also with the difficulties of their enforcement, if you would, gentlemen.<sup>1</sup>

Senator HRUSKA. Would the chairman yield on that point?

Senator BAYH. Yes, of course.

#### INDIVIDUAL TRANSFER NOT INCLUDED IN 1968 ACT

Senator HRUSKA. The question of making such transfers subject to some criminal penalty came up during the course of the consideration of the 1968 gun control law, and it was deliberately not included.

Would it be true that there would be substantial registration of guns, on a Federal basis, if the individual transactions from one individual to another were prohibited, or that they had to be reported?

Mr. MACDONALD. I think that is the problem.

Senator HRUSKA. If the lower half of that application goes to Washington and it is computerized, and if there is a penalty for the original buyer of that gun from giving it or selling it or trading it, and if it is stolen he would have to report it, is that not tantamount to Federal registration of firearms?

Mr. MACDONALD. In our opinion, it is.

Senator HRUSKA. And it is that precise point that concerns me.

The other point is, think of the administrative impossibility of something like that. What is it—100 million guns all told in the country? And it is just like automobiles or boats. You buy a gun and you improve your position; you trade them, you lend them, you give them away. They are stolen and sometimes this is not known for months or maybe years. You may not know that they are stolen. And it would put the burden on the man who owns the gun or ever owned a gun to take some affirmative action. It was that burden which was considered so great and so intolerable that it was not included in the law. I doubt very much that it would be successfully approved into the law if it were proposed now.

In other words, that law controls the individual who is disqualified, it controls a business; but it does not control individuals.

Mr. MACDONALD. You put your finger on the problem: that is one of compliance. We would like to develop something where the compliance is maximized—if that possibility exists.

Senator BAYH. I must say I disagree with my colleague, that this is different from licensing and registration. You look at it differ-

<sup>1</sup> See subsequent information, p. 232.



ently. I thought you said Treasury had the authority right now to require that a form like that be sent to Washington and checked.

Mr. MACDONALD. At the original purchase, not in the aftermarket. It is the aftermarket that I believe the Senator was addressing himself to.

Senator HRUSKA. Yes.

If that original purchaser gives it away or sells it to an individual or trades it or loses it, he is not required under the law to report that.

Mr. MACDONALD. Mr. Chairman, we find that ATF is able to trace about 65 percent of the weapons that are domestically sold and used in crime back to the first purchaser. We believe that the recommendations we made in my opening statement would improve that percentage to some degree.

Senator HRUSKA. To whom is that tracing service available?

Mr. MACDONALD. State and local law enforcement agencies.

Senator HRUSKA. To the local and State agencies, as well as the Federal authorities?

Mr. MACDONALD. Yes.

Senator HRUSKA. I wonder if Senator Ervin would be very fond of such a provision. He is known to have opposed the availability of government records of that kind indiscriminately and without safeguards.

#### ALL RECORDS MAINTAINED BY DEALER AT PREMISE

Mr. DAVIS. If I could point out to the Senator, all the records are presently maintained at the dealer's premises, so that we have no ability, independent of those decentralized, dispersed records to make a trace. At the present time, very frankly, when we start out we make a telephone call, if it is a priority trace, to the manufacturer. He tells us from his records that he sold it to a wholesaler. We make a telephone call to him and he tells us he sold it to dealer X. We make a call to him and he looks at his records and says, "Yes." Sometimes we send an agent there depending, again, on the importance. We either go to look at his records or he tells us that he sold it to a named individual. So there are no centralized records that are maintained in the Government. All of them are maintained out in the dealer's hands.

Senator BAYH. May I ask again here, a little more definitively. We have already discussed that significant traceability is after the fact.

Mr. DAVIS. Correct.

Senator BAYH. I would like for us to find some way to be alerted to the fact that one of the proscribed parties is going to buy firearms before he or she buys it. That is a different situation. I am not sure you have authority under the law right now to deal with that. We will consider it, but what happens of course will depend on the legislative process.

#### LEGALLY COMPUTERIZE FORM 4473 INFORMATION

Is there anything in the law, right now, to keep you from organizing the computerized operation—you can take the information which is now available; put it in this computer—in Washington? Take it

from those people who now look upon it as a bureaucratic falacy of no relevance. Interact that computer with information which is now available at the FBI. At least in a short duration—a matter of days, a week or however long it takes—be able to determine the possession of a handgun by one who has violated the law and is in a category more apt to use it?

Mr. DAVIS. No, sir; there is nothing in the present law that would prohibit us from requiring certain of the information on the 4473 from being forwarded to ATF. Assuming we had the ability to computerize it, then I think we could very quickly ascertain whether that individual did have an arrest record or a felony conviction.

Senator BAYH. Am I accurate in my recollection, and is my source of information correct, that ATF has requested funds for computerization?

Mr. CLAWSON. Not to this magnitude. They have requested funds for computers—

Senator BAYH. To do what?

Mr. CLAWSON. I think for their liquor/alcohol licensing, which they are moving toward and are working to try to obtain an automated data processing capability. They do have a computer shop; they do not have it physically here. They used other people's time, and they ran some of these studies and things, and they have requested funds. The Department, in its priorities so far, has not seen fit to grant them to move ahead to the extent they wish to.

Senator, they have not requested funds for this purpose, I might add.

Am I correct on that?

Mr. DAVIS. That is correct.

Mr. CLAWSON. For the purpose you have mentioned.

Senator BAYH. You have a computer that is going to be used for your other two responsibilities in the areas of alcohol and tobacco—I suppose it would be primarily with the alcohol responsibility—but you have the trifold responsibility. Is it unfair to suggest that it would not be that much greater a task to use that same machinery to deal with the firearms responsibility you have?

Mr. CLAWSON. It is certainly possible.

Senator BAYH. Could I ask you, please, to—on a crash basis—give us an idea of what is involved, as far as the costs of that kind of thing?

Mr. MACDONALD. Certainly.

Senator BAYH. And also, consider what is necessary to deal with the responsibility and the opportunity you now have, after the fact, to quickly assess that somebody who is a proscribed individual has access to a firearm and also likely to use it. Can we find some way to provide a waiting period, to let you get that information before the fact? Could you, please provide that also?

Mr. MACDONALD. Yes, sir.<sup>1</sup>

#### SPORTING PURPOSE TEST OF 1968 ACT

Senator BAYH. The 1968 act provides for the sporting purpose test which you referred to in your testimony.

<sup>1</sup> See subsequent information, p. 234.

What is your estimate as to the number of weapons that were kept out of the country as the result of the sporting purpose test applied to the import of handguns under the 1968 act? How many weapons per year? Could you make an assessment of that for us?

Mr. DAVIS. Senator, we have figures as to the number of applications that were submitted after the 1968 Gun Control Act came into being that we denied because they did not meet the sporting criteria test. Obviously it would be very difficult to know how many guns were kept out of the country, since, once having learned of the provisions of the 1968 act, then of course they would no longer make attempts to import them into the United States.

Senator BAYH. I do not want your life and reputation to hinge on this answer, but certainly somebody who is familiar with the problems as you are, Mr. Davis, can give us a ball park estimate.

Mr. DAVIS. I can give you for example, Senator, prior to the passage of the Gun Control Act of 1968, the period immediately prior to that, 1,259,356 imported handguns were brought into the United States.

Senator BAYH. That is the domestic figure.

Mr. DAVIS. I am sorry; you are absolutely right, sir. It was 1,155,000.

The year following the passage of the Gun Control Act, it dropped to 406,281.

Mr. MACDONALD. With an additional 591,000 parts imported that were then assembled into a handgun.

Senator BAYH. All right.

So, we are talking about somewhere less than 1 million; but several hundred thousand, right?

Now we have witnessed the imports fall off, an increase in assemblage of imported parts and the number of manufactured weapons, as you point out, have been modified to conform to the factoring criteria. If you applied the present factoring criteria, such as the factoring criteria contained in the Bayh "Saturday Night Special" bill that passed the Senate in 1972, how many weapons would this take out of circulation? In other words, how big a loophole would we plug?

Mr. DAVIS. Yes, sir.

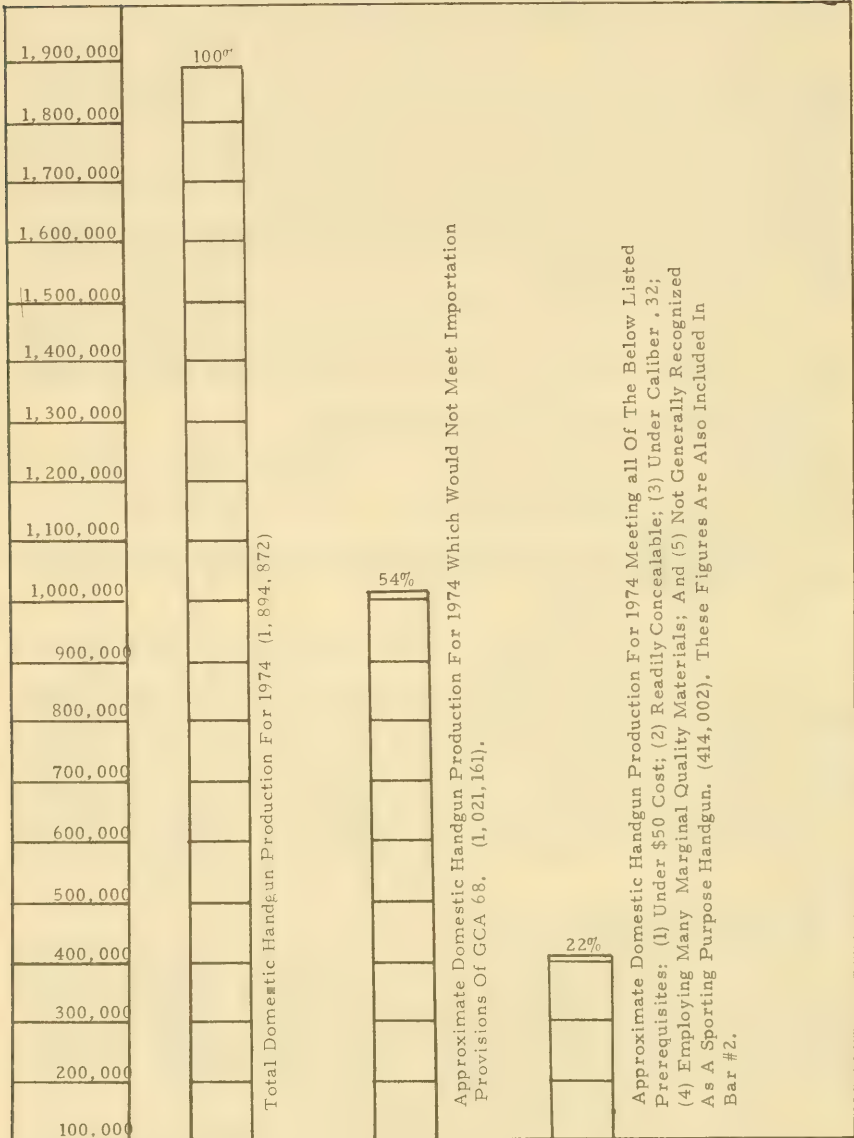
We estimate that 54 percent of the annual production of handguns in the United States would fail to meet the import criteria if it were applied to domestic handguns. There are about 2 million handguns that are domestically manufactured in the United States each year, so we are talking about somewhat in excess of 1 million handguns, domestically produced, that would not meet the criteria.

#### FOREIGN PARTS ASSEMBLAGE LOOPHOLE

Senator BAYH. Looking at this figure, we are talking about better than 1 million. We are also talking about some 680,000 that are now assembled from foreign parts that come in. Is that still a loophole?

Mr. DAVIS. Well, sir, if there is legislation to prevent the importation of foreign parts—

## ANALYSIS OF 1974 DOMESTIC HANDGUN PRODUCTION





Senator BAYH. Well, my bill prohibited the assemblage and sale of handguns made from foreign parts that circumvent the law.

Mr. DAVIS. Yes, sir. As you are aware, the Gun Control Act prohibited the importation of frames or receivers. It did not prohibit other foreign parts which come in.

Senator BAYH. I am talking about the bill that passed the Senate in 1972, not the 1968 Firearms Act. I am not being critical that you are not enforcing, I am saying it is a loophole big enough to drive 680,000 guns through.

Mr. DAVIS. Yes, sir, you are absolutely correct. We do perceive an enforcement problem in this area. It would be one, of course, that primarily would be administered by our sister agency, the Customs Service.

Many times, handgun parts are, very frankly, hard to detect. In other words, they could be used for something else, and things of this kind. But it would be a practical problem and I think one that we could come to grips with.

Senator BAYH. Now it poses no problem, does it?

Mr. DAVIS. No, sir, because we cannot do anything about it.

Senator BAYH. Yes; and you have 680,000 handguns that were assembled in this country from foreign parts this year.

Mr. DAVIS. Yes, sir. And I have no doubt that we could certainly make a big dent, even given some rather difficult enforcement problems.

Senator BAYH. It would be a lot easier to deal with. Smuggling the firearms parts in a manner that makes it economically feasible is a lot different than heroin or something like that. They are rather bulky, much more easily detected. We are really talking about 1,700,000 weapons that—if we had the kind of factoring criteria that was in the bill passed 3 years ago—would now be prohibited from being sold every year. That is, without licensing, without registration, without confiscation, some of those scare things that get people all up tight. That would assure much less access to the kind of weapon which, by your testimony, is most prevalently used by the criminal element.

Is that accurate?

Mr. DAVIS. Senator, I might point out that the figures we have here may be somewhat misleading, and may have misled you, that the domestic production includes not only those that are wholly manufactured in the United States, but also those that are assembled in the United States from foreign parts. So that, in effect, the 687,000 becomes a part of the 1,894,000.

Senator BAYH. That would make it even look better compared to the total production.

Mr. DAVIS. Yes sir.

Senator BAYH. A recent law review article by firearms expert Frank Zimring, which I will enter in the record [see Exhibit 12], estimates that nondealer gun transfers are claimed to involve a higher proportion of illegal sales than dealer transfers, and that they amount to a total of about 30 percent of the total gun commerce.

Is that a fairly accurate assessment, looking at this problem we were addressing ourselves to earlier?

[Testimony continued on p. 192.]

(EXHIBIT NO. 12)

## FIREARMS AND FEDERAL LAW: THE GUN CONTROL ACT OF 1968

*FRANKLIN E. ZIMRING\**

IN 1968, after five years of debate on firearms control, Congress passed a Gun Control Act designed to "provide support to Federal, State, and local law enforcement officials in their fight against crime and violence."<sup>1</sup> This paper reports on an effort to study the impact of the Gun Control Act on the problems that prompted its passage. The study is of possible interest for two reasons.

First, it is an attempt to increase our rather modest knowledge of the effects of governmental efforts to control firearms violence. In recent years the rate of gun violence in the United States has managed to grow to alarming proportions without the benefit of sustained academic attention.<sup>2</sup> The 1968 Act—the only major change in federal policy since 1938—seems a natural place to look for clues about the effects of gun controls. And the need for knowledge in this area seems obvious, inasmuch as controversy is rampant and new federal legislative proposals are almost a weekly Washington event.

Second, the study is an effort to gain some perspective on the difficulties

\*Professor of Law, and Co-Director of the Center for Studies in Criminal Justice, University of Chicago. The research reported in this article was supported by a grant from the Law and Social Science Program of the National Science Foundation, GS 38285. Data for the study were provided by the U.S. Bureau of Alcohol, Tobacco and Firearms, the Uniform Crime Reporting Branch of the Federal Bureau of Investigation (F.B.I.), and the Washington, D.C. Police Department. Without such cooperation the study could not have gone forward. Virginia Cook Aronson, Nathan Dardick, Marlene Dubas, Stanley Grimm, Theodore Hirt, and Barry Howard—all present or former University of Chicago law students—served as research assistants on this project. Mark Leff, then a doctoral candidate in history at the University of Chicago, prepared a history of federal firearms legislation that bears a striking resemblance to the materials in the first section of Part I. The views expressed in this article are, of course, my own, and do not necessarily reflect those of the individuals and agencies that have cooperated in this research.

<sup>1</sup> Gun Control Act of 1968, § 101, Pub. L. No. 90-618, 82 Stat. 1213.

<sup>2</sup> Between 1963 and 1973 the rate of crime homicide known to the police increased from 4.5 per 100,000 to 9.3 per 100,000. Killings by all means other than guns increased from 2.0 per 100,000 to 3.1 per 100,000. Gun killings increased from 2.5 per 100,000 to 6.2 per 100,000. Compare Federal Bureau of Investigation (F.B.I.), Uniform Crime Reports 1963, at 3, 6-8 with *id.* 1973, at 6-10. See also George D. Newton & Franklin E. Zimring, *Firearms and Violence in American Life* 49-53 (Nat'l Comm'n on the Causes & Prevention of Violence, Staff Report, 1963) for a discussion of the relationship between firearms and violent crime.

and promise of empirical studies of "legal impact." Over the past few years, studies attempting to assess the impact of legislation have begun to occupy an important place in law-related scholarship.<sup>3</sup> Diverse both in subject matter<sup>4</sup> and methodology, these studies are motivated by the hope that they will build toward a deeper understanding of law as an instrument of social control.<sup>5</sup>

The first section of this paper gives a capsule outline of the antecedents of the Gun Control Act—prior federal laws regulating firearms traffic and some of the legislative proposals that affected the shape of the 1968 law. Part II briefly analyzes the Act itself, showing how prior federal law was altered and how the alterations were thought to serve regulatory ends. Part III presents data on the impact of the law, focusing on the so-called "Saturday Night Special" ban and the effort to aid state and local gun control efforts by reducing the flow of firearms from loose-control to tight-control states. Part IV discusses some of the broader implications of the study.

The study will be of little use to the most fervent friends and foes of gun control legislation. It provides data they do not need. Each group has already decided that the 1968 Act has failed, and each group uses the Act's presumed failure to confirm views already strongly held. Enthusiasts for strict federal controls see the failure of the law as proof that stricter laws are needed,<sup>6</sup> while opponents see it as evidence that no controls will work.<sup>7</sup> The picture that emerges from available data is more equivocal. There is evidence that

<sup>3</sup> A partial list of empirical studies of changes in law includes Vilhelm Aubert, *Some Social Functions of Legislation*, 10 *Acta Sociologica* 98 (1966); David C. Baldus, *Welfare as a Loan: An Empirical Study of the Recovery of Public Assistance Payments in the United States*, 25 *Stan. L. Rev.* 123 (1973); Donald T. Campbell, *Reforms as Experiments*, 24 *Am. Psychologist* 409 (1969); Donald T. Campbell & H. Laurence Ross, *The Connecticut Crackdown on Speeding: Time-Series Analysis Data in Quasi-Experimental Analysis*, 3 *L. & Soc'y Rev.* 33 (1968); Gene V. Glass, *Analysis of Data on the Connecticut Speeding Crackdown as a Time-Series Quasi-Experiment*, 3 *L. & Soc'y Rev.* 55 (1968); Gene V. Glass, George C. Tiao, & Thomas O. Maguire, *The 1960 Revision of German Divorce Laws: Analysis of Data as a Time-Series Quasi-Experiment*, 5 *L. & Soc'y Rev.* 539 (1971); William M. Landes & Lewis C. Solomon, *Compulsory Schooling Legislation: An Economic Analysis of Law and Social Change in the Nineteenth Century*, 32 *J. Econ. Hist.* 54 (1972); H. Laurence Ross, *Law, Science and Accidents: The British Road Safety Act of 1967*, 2 *J. Leg. Studies* 1 (1973); Johan Thorsten Sellin, *The Death Penalty: A Report for the Model Penal Code Project of the American Law Institute* (1959).

<sup>4</sup> Among other legislative changes studied—liberalization of divorce law in turn-of-the-century Germany, "crackdowns" on speeding and drunk driving in the United States and Great Britain, abolition and reintroduction of the death penalty for murder, and provisions for recovering welfare payments from the estates of former recipients.

<sup>5</sup> See Donald T. Campbell, *supra* note 3.

<sup>6</sup> See, e.g., Robert Sherrill, *The Saturday Night Special* 19, 297 (1973).

<sup>7</sup> See, e.g., Harold W. Glassen, *Firearms Control: A Matter of Distinction*, 8 *Trial*, January/February 1972, at 52, 54.



the approach adopted by the Act can aid state efforts at strict firearms control, although the resources necessary to achieve this end have never been provided by Congress. There is also reason to believe that the potential impact of the Act is quite limited when measured against the problems it sought to alleviate.

## I. ORIGINS AND ANTECEDENTS

While firearms have always played an important part in American life, gun control has never been an important federal legislative topic. State and local attempts to regulate the carrying of concealed weapons date from the early nineteenth century,<sup>8</sup> with substantial legislative activity occurring during the period from 1880 through 1915, but there was no pressure generated to federalize the issue of firearms control during this time.<sup>9</sup> In 1915 Senator Shields of Tennessee proposed a bill to ban interstate commerce in handguns, but no bill that could properly be called an effort at firearms control was reported out of a congressional committee prior to the end of World War I.<sup>10</sup>

In 1919 a 10 per cent manufacturers' excise tax on firearms was imposed as part of a larger War Revenue Act,<sup>11</sup> and though the primary motive of the legislation was fiscal, the legislative history of the tax also reveals concern with handguns as a public safety problem.<sup>12</sup> Like most emergency tax measures, the tax handily survived its emergency and is still, in amended form, a part of federal firearms policy.<sup>13</sup> The excise tax is also of lasting importance because the use of the taxing power and the vesting of regulatory responsibility in the Department of the Treasury, begun in 1919, set the pattern for later efforts at federal firearms control.

Urban crime and handgun use received an increasing amount of public attention during the post-World War I years,<sup>14</sup> and this period produced a significant amount of state and local firearms legislation, as well as more debate about a federal role in gun regulation. By 1924, more than a dozen

<sup>8</sup> George D. Newton & Franklin E. Zimring, *supra* note 2, at 87 & n.4.

<sup>9</sup> Mark Leff, *Federal Firearms Control Before 1920* (unpublished paper, Univ. of Chicago Law Sch., Center for Criminal Justice).

<sup>10</sup> Hearings on H.R. 2610 and H.R. 25170 before a Subcommittee of the House Comm. on Ways and Means, 62d Cong., 2d Sess., *passim*. (1912); 51 Cong. Rec. 14248 (1914) (introduction of H.R. 18520 by Representative Kindel); 52 Cong. Rec. 4084 (1915) (remarks of Senator Shields).

<sup>11</sup> Revenue Act of 1918, ch. 18 § 900(10), 40 Stat. 1057, 1122 (now Int. Rev. Code of 1954, § 4181).

<sup>12</sup> See 56 Cong. Rec. (App.) 612 (1918) (remarks of Representative Lonergan).

<sup>13</sup> The Wildlife Restoration Act, 16 U.S.C. § 669(b) (1970) earmarks receipts from the tax to state wild-life preservation programs.

<sup>14</sup> Lamar T. Beman, comp., *Outlawing the Pistol* (1926), *passim*.



federal firearms control bills, most of them regulating interstate commerce in handguns, were before Congress.<sup>15</sup>

In 1927 Congress enacted a law prohibiting the mailing of concealable firearms to private individuals.<sup>16</sup> Directed against the undermining of state and municipal firearms control statutes through out-of-state handgun sources, this law represented the first federal attack on "mail order murder." As an attempt to curtail interstate movement of handguns, the 1927 prohibition (which remained in effect until 1968) was deficient. Of all interstate carriers, only the United States mails were closed to handgun commerce. This partial closure was of little effect, since guns could be ordered by mail and delivered to the purchaser by private express companies.<sup>17</sup> Nevertheless, the effort was an important precedent for control of interstate firearms traffic in two respects. The 1927 law and dissatisfaction with its effectiveness led to proposals for tighter controls on interstate firearms sales to private citizens that culminated in the Gun Control Act of 1968's near-total ban on such transactions. And by distinguishing between dealers (who were allowed to receive concealable firearms) and other private citizens (who were not), the postal ban created some incentive for private citizens to be considered dealers and thus created the need to define the limits of the dealer category.<sup>18</sup> This problem was not important in the years immediately after 1927 because there were so many other ways for private citizens to circumvent the postal ban. But as succeeding generations of federal legislation made the status of "dealer" more attractive, they also made it necessary for any effective scheme of federal regulation to define, license, and regulate firearms dealers.<sup>19</sup>

It is easy to overestimate the public importance of firearms regulation during this period. While crime and criminals were major issues, there is little evidence that the "gun problem" and proposals to increase the federal role in firearms regulation were visible public issues.<sup>20</sup> The major public concern was crime control, and guns were perceived as one small part of that larger issue. There is also little to suggest that there was strong sentiment prior to the early New Deal period to think of crime control as a national problem meriting substantial federal regulation.

The focus of discussion during the 1920s was on uniform state laws regulating possession and use of handguns. In 1923 a draft of a uniform revolver

<sup>15</sup> 65 Cong. Rec. (Index) 140, 295 (1924).

<sup>16</sup> Act of June 25, 1948, § 1715, 62 Stat. 781 (codified at 18 U.S.C. § 1715 (1970)).

<sup>17</sup> See Interstate Traffic in Mail-Order Firearms, hearings before the Subcomm. to Investigate Juvenile Delinquency of the Senate Comm. on the Judiciary, 88th Cong., 1st Sess., pt. 14, at 3186 (1963).

<sup>18</sup> Act of June 25, 1948, § 1715, 62 Stat. 781 (codified at 18 U.S.C. § 1715 (1970)).

<sup>19</sup> See notes 30 (Federal Firearms Act) and 89 (Gun Control Act of 1968), *infra*.

<sup>20</sup> Nat'l Conf. of Comm's on Uniform State Laws, Handbook and Proceedings 1923, at 20.

law (prepared by the United States Revolver Association which hoped to preempt what it considered to be irresponsible permit schemes) was submitted to the National Conference of Commissioners on Uniform State Laws.<sup>21</sup> This proposal served as the model for the Conference's 1926 proposed Uniform Firearms Act, which established license requirements for handgun dealers, a 48-hour waiting period prior to handgun purchase, and the registration of handguns purchased from dealers and supplementary penalties for handgun use in violent crimes.<sup>22</sup>

In 1927 the first National Crime Commission recommended a more stringent uniform state law as the primary national handgun policy, with supplementary federal legislation designed to forbid the importation of handguns and machine guns, and an extension of the ban on interstate shipment of handguns to cover common carriers.<sup>23</sup>

The first serious discussion of a more extensive federal role in firearms regulation came in the early years of the New Deal. By 1932 federal solutions to many problems were being advocated with increasing frequency.<sup>24</sup> Public concern with crime and criminals had shifted from worry about the "highwaymen" or "thugs" to the machine-gun-toting interstate gangster personified by John Dillinger.<sup>25</sup> The national fear of gangsters combined with the Roosevelt Administration's willingness to stretch the limits of federal jurisdiction to produce an unprecedented package of federal anti-crime initiatives, resulting in a bumper 1934 crop of laws creating, among others, the federal crimes of robbing a federally insured bank, assault of a federal agent, and interstate flight to avoid prosecution for certain state felonies.<sup>26</sup>

There were a number of reasons why a federal firearms control proposal could be expected as part of a larger crime-control effort. The submachine gun, then of public importance, was a natural candidate for public fear and legislative wrath. It is also worth noting that Franklin D. Roosevelt as Governor of New York had defended that state's restrictive handgun licensing statute, had campaigned for a state ban on machine guns, and had publicly advocated federal regulation of interstate commerce in handguns.<sup>27</sup>

<sup>21</sup> Uniform Firearms Act § 11, in *id.* 1926, at 577.

<sup>22</sup> *Id.* 1927, at 890.

<sup>23</sup> John Brabner-Smith, Firearm Regulation, 1 Law & Contemp. Prob. 400 (1934); Drastic Law Aimed at Pistols, N.Y. Times, Feb. 23, 1927, at 25.

<sup>24</sup> See generally, Arthur M. Schlesinger, Jr., The Age of Roosevelt, vol. 2, The Coming of the New Deal (1958).

<sup>25</sup> William J. Helmer, The Gun That Made the Twenties Roar, 114-16 (1969).

<sup>26</sup> Roosevelt Opens Attack on Crime, Signing Six Bills as Challenge, N.Y. Times, May 19, 1934, at 1; 3 The Public Papers of Franklin D. Roosevelt 242-45 (Samuel I. Rosenman ed. 1938).

<sup>27</sup> Roosevelt Cites Own Case to Show Gun Permit Dangers, N.Y. Times, Sept. 3, 1931, at 8; Governor Vetoes Law Changes, N.Y. Times, March 29, 1932, at 4.

But the principal booster for a federal role in firearms control was Roosevelt's first Attorney General, Homer Cummings. It was his Justice Department that was the moving force behind the National Firearms Act of 1934,<sup>28</sup> and that attached a provision for federal registration of all handguns to the "anti-machine gun" measure sent to Congress in 1934.<sup>29</sup> When the handgun registration segment of the bill was deleted in the House, the Justice Department continued to introduce handgun registration proposals, and to fight for them throughout the 1930s, long after crime control had lost its place in the hierarchy of New Deal legislative goals.

The firearms control campaign of the 1930s resulted in two pieces of federal legislation: the National Firearms Act of 1934,<sup>30</sup> and the Federal Firearms Act of 1938.<sup>31</sup> Neither law reflected the scope of Attorney General Cummings' ambitions, but the two acts established a role for the federal government in firearms control, and these laws were the immediate precursors of the Gun Control Act of 1968.

The National Firearms Act of 1934, after the handgun registration provisions were deleted, was a concentrated attack on civilian ownership of machine guns, sawed-off shotguns, silencers, and other relatively rare firearms that had acquired reputations as gangster weapons during the years preceding its passage. Modeled on the Harrison Narcotics Act,<sup>32</sup> the N.F.A. based its regulatory powers on a tax imposed on traffic in the weapons, thus generating federal jurisdiction for intrastate as well as interstate transactions. The tax rate, \$200 per transfer, did not seem calculated to encourage extensive commerce in these weapons.<sup>33</sup> The Act also provided for the immediate registration of all covered weapons, even if illegally owned—a provision altered in 1968, after the United States Supreme Court held the 1934 provision to be an infringement on the constitutional privilege against self-incrimination.<sup>34</sup>

<sup>28</sup> Hearings on H.R. 9066 before the House Committee on Ways and Means, 73d Cong., 2d Sess., at 4, 65, and 130 (1934).

<sup>29</sup> Even when the bill included handgun registration, it was popularly known as an "anti-machine gun" law. See Cummings Asks Airplanes, N.Y. Times, April 25, 1934, at 3.

<sup>30</sup> National Firearms Act, ch. 757, 48 Stat. 1236 (1934), as amended by Int. Rev. Code of 1954, §§ 5801-5872.

<sup>31</sup> Federal Firearms Act, ch. 850, 52 Stat. 1250 (1938) (repealed by Pub. L. No. 90-351, § 906, 82 Stat. 234 (1968)).

<sup>32</sup> Harrison Act, Int. Rev. Code of 1954, § 4701 *et seq.* (repealed by Pub. L. No. 91-513, § 1101(b)(3)(a), 84 Stat. 1292 (1970)).

<sup>33</sup> Governmentally owned weapons were exempt from the tax and constituted the bulk of all registered weapons. See U.S. Int. Rev. Service (I.R.S.), Annual Report of the Comm'r 1941, at 29.

<sup>34</sup> Haynes v. United States, 390 U.S. 85 (1968). Two companion cases, Marchetti v. United States, 390 U.S. 39 (1968), and Grosso v. United States, 390 U.S. 62 (1968), struck down convictions based on failure to register and report as gamblers under



There are two respects in which the National Firearms Act influenced the shape of the 1968 gun-control effort. First, the N.F.A. put the government in the business of licensing manufacturers and dealers of firearms, although the number of weapons and dealers affected was relatively small. Second, the use of the taxing power again centered enforcement responsibility in the Department of the Treasury.<sup>35</sup>

The N.F.A. is often cited as an instance in which federal firearms controls succeeded in substantially achieving their purpose—in this case the extinction of the submachine gun and other gangster weapons.<sup>36</sup> On this issue the historical record is not completely clear. To be sure, the number of frightening incidents involving submachine guns diminished after the N.F.A. and a coordinated federal effort to halt production of the guns.<sup>37</sup> This was also a period of intensive state effort at submachine gun control. The dangers of drawing a causal inference between federal regulation and the end of the “Tommy-Gun Era” are, however, manifold. Available data on the use of gangster weapons before the N.F.A. are not precise; thus a meaningful before-and-after study is difficult. More important, it is hard to determine whether the use of these weapons was a phenomenon that had reached an unnatural peak just before the advent of federal regulation and would have abated in any event.

The Federal Firearms Act of 1938<sup>38</sup> was the most significant pre-1968 attempt to impose federal controls on the commerce and possession of a broad spectrum of firearms. Shepherded through the Congress by the National Rifle Association, the 1938 Act was pressed more to submerge than to further the schemes for federal handgun registration that regularly commuted from the Justice Department to the Congress (and back) during the 1930s.<sup>39</sup>

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Int. Rev. Code of 1954, §§ 4401-4423. In all three cases the constitutional flaw was that registration and reporting would show the registrant to be violating state or federal law. The N.F.A. amendments in 1968 provide that registration information may not be used in a criminal prosecution.

<sup>35</sup> National Firearms Act, ch. 757, §§ 5801, 5811, 5821, 48 Stat. 1236 (1934), as amended Int. Rev. Code of 1954, §§ 5801, 5811, 5821.

<sup>36</sup> William J. Helmer, *supra* note 25, at 152-53.

<sup>37</sup> *Id.* at 144-45.

<sup>38</sup> Federal Firearms Act, ch. 850, 52 Stat. 1250 (1938) (repealed by Pub. L. No. 90-351, § 906, 82 Stat. 234 (1968)).

<sup>39</sup> The origin of the Federal Firearms Act of 1938 was S. 3, 74th Cong., 1st Sess. (1935), introduced by Sen. Copeland of New York in 1935 and reportedly drafted by the Senator's staff, a representative of the Justice Department, and a representative of the National Rifle Association. See 79 Cong. Rec. 11973 (1935) (remarks of Sen. Copeland). Watching this bill's progress unenthusiastically, the Justice Department continued its campaign for firearms registration, eliciting some favorable editorial response, but little congressional support. Homer Cummings to Robert L. Doughton, with attached editorials, April 11, 1938, Folder 708, Robert L. Doughton Papers in the Southern His-



The 1938 Federal Firearms Act spread a thin coat of regulation over firearms and many classes of ammunition suitable for handguns. All manufacturers, importers and dealers handling guns shipped in interstate commerce were required to obtain federal licenses (\$25 for manufacturers and importers, \$1 for dealers).<sup>40</sup> Licensees were prohibited from knowingly shipping a firearm in interstate commerce to some felons, a fugitive from justice, a person under indictment, or anyone required to have a license under the law of the seller's state who did not have a license.<sup>41</sup> All these prohibited owner classes were also forbidden to receive guns which were or had been in interstate commerce. Dealers were also required to keep records of firearms transactions. Enforcement responsibility was vested in the Secretary of the Treasury who delegated the assignment to the Internal Revenue Service.<sup>42</sup>

The apparent aims of the 1938 legislation were to create an independent federal policy banning the receipt of firearms by what must have been thought of as the criminal class of society, and to aid state and local efforts at tighter control by prohibiting transactions that would violate local law. As a strategy to accomplish these goals, however, the Federal Firearms Act was deficient in a number of respects, and further crippled by a tradition of less-than-Draconian enforcement by the Internal Revenue Service. One major problem was that the Act prohibited only the transfer of weapons to the prohibited classes when the transferor knew or had reasonable cause to believe his transferee was a felon, fugitive, etc.,<sup>43</sup> but transferors were not required to obtain positive identification of their customers or to take other steps to verify the eligibility of customers under the act. From the standpoint of prosecuting dealers for violation of the federal ban against sale to felons, the requirement of knowledge, coupled with the absence of a verification system, rendered the Act stillborn. When local law required a license, however, the license requirement made both dealer and customer liable under federal law if they were aware of the local requirements.

Two other prominent loopholes in the 1938 Act deserve special mention because they determined the shape of the 1968 Act. First, the modest cost of a dealer's license and the fact that dealers could freely receive firearms in interstate commerce created strong incentives for private parties to receive

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torical Collection at the University of North Carolina Library, Chapel Hill, North Carolina. The N.R.A. predicted that "The passage of this measure [the F.F.A.] would mean the death of the Attorney General's bills." See Carl Bakal, *The Right to Bear Arms* 177 (1966).

<sup>40</sup> Federal Firearms Act, ch. 850, § 3(a), 52 Stat. 1251 (1938).

<sup>41</sup> Federal Firearms Act, ch. 850, §§ 2(c)-2(d), 52 Stat. 1250-51 (1938).

<sup>42</sup> Federal Firearms Act, ch. 850, § 7, 52 Stat. 1252 (1938); T.D. 4834, 1938-2 Cum. Bull. 465, 467.

<sup>43</sup> Robert Sherrill asserts that the first arrest of a dealer under this section was made in 1968. Robert Sherrill, *supra* note 6, at 66.

dealer licenses. This in turn resulted in a large number of dealers (over 100,000 in the mid-1960s)<sup>44</sup> and made any serious effort to monitor dealer compliance with the act an enormous undertaking for an Internal Revenue Service that did not, in any event, give the F.F.A. a very high priority. A second problem was that customers from states that required licenses could purchase guns in states that did not, as long as they did not give the dealer in the no-license state any reason to have knowledge of their lack of eligibility. The customer might have to lie to his supplier and would himself be subject to federal criminal penalties, but guns were readily available through this route.<sup>45</sup>

The Commissioner of Internal Revenue had been designated by the Secretary of the Treasury to promulgate regulations to facilitate the enforcement of the Act, but the regulations governing administration of the F.F.A.<sup>46</sup> fell far short of the powers delegated by Congress. Under the act, dealers were required to maintain "permanent records"<sup>47</sup> of firearms transactions; under the regulations in effect until 1958 records had to be maintained for six years (ten years after 1958),<sup>48</sup> and there was very little effective policing of dealer compliance with the record-keeping provisions.<sup>49</sup> The F.F.A. regulations did not require serial numbers on firearms (necessary to identify a particular gun as having been the subject of a transaction) until 1958, and then exempted .22-caliber rifles from the serial number requirement. More significantly, no attempt was made to end by regulation the immunity from prosecution enjoyed by dealers because they did not have to verify the eligibility of their customers. While it was probably beyond the rule-making power delegated by the Act to impose a waiting period or the compulsory notification of police departments as to firearms transactions, it could easily have been considered within the Commissioner's authority to require transferees to positively identify themselves.<sup>50</sup> Indeed, it is a fascinating exercise to debate how many of the changes brought about by the Gun Control Act of 1968 could have been accomplished by rule-making power under the Federal Firearms Act of 1938 and other prior federal laws.<sup>51</sup>

<sup>44</sup> Federal Firearms Act [II], hearings on S. 1 before the Subcomm. to Investigate Juvenile Delinquency of the Senate Comm. on the Judiciary, 90th Cong., 1st Sess., at 40 (1967).

<sup>45</sup> Mail order advertisements for guns contained forms for the prospective customer to sign, relieving the dealer of liability under the Act. See *Interstate Traffic in Mail Order Firearms*, *supra* note 17, pt. 14, at 3231.

<sup>46</sup> Treas. Reg. §§ 315.0-315.14, T.D. 4898, 1939-1 Cum. Bull. 364.

<sup>47</sup> Federal Firearms Act, ch. 850, § 3(d), 52 Stat. 1252 (1938).

<sup>48</sup> Treas. Reg. § 315.10(c), T.D. 4898, 1939-1 Cum. Bull. 370.

<sup>49</sup> Treas. Reg. § 177.53 (1958).

<sup>50</sup> Federal Firearms Act, ch. 850, § 7, 52 Stat. 1252 (1938).

<sup>51</sup> My own view is that form 4473 and other provisions of the 1968 dealer regulations

Few resources were invested in the enforcement of the Federal Firearms Act. In 1967 the Alcohol, Tobacco and Firearms division of the Internal Revenue Service reported an investment of 35 man-years in enforcing both the National Firearms Act of 1934 and the Federal Firearms Act of 1938.<sup>52</sup> During the period 1966-1968, a total of 275 arrests were reported under the Federal Firearms Act, and it has been asserted that no dealers were charged with violating the Act until 1968.<sup>53</sup>

The lack of aggressive enforcement may obscure a deeper reason for the failure of the F.F.A.: the tasks of keeping firearms out of the hands of a small criminal class and keeping firearms from crossing those state lines where they are unwelcome was an excruciatingly difficult job in a country that averaged more than one gun per household<sup>54</sup> during the career of the F.F.A. Strict regulation of gun dealers could have done part of the job, but would have required enormous federal effort, particularly since the great majority of all states did not require licenses of gun purchasers.<sup>55</sup> And even if all dealers were regulated, about half of all guns are acquired used in the United States, and more than half of these guns are acquired from private individuals.<sup>56</sup> The only way to attempt to control this secondary or hand-to-hand market would be the registration of firearms in order to reduce the hand-to-hand "float" of guns from eligible to ineligible owners.<sup>57</sup> Yet few states had handgun registration during the life of the F.F.A.,<sup>58</sup> and no state required the registration of all weapons.<sup>59</sup>

This is not to say that the Federal Firearms Act was useless, or that more energetic enforcement would not have made some impact on the problems created by the criminal use of firearms. The F.F.A. provided an additional charge that could be lodged against a suspect arrested by authorities for another offense and found in possession of a gun he was prohibited from acquiring; even after the presumption that such a gun had been in interstate

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could have been accomplished by regulation, while the ban on sales to nonresidents and minors could only have been accomplished by legislation. However, while regulation could not have prohibited sales to nonresidents, the Service might have required special identification procedures and, perhaps, notification of local law enforcement officials in the transferee's state.

<sup>52</sup> Federal Firearms Act [II], *supra* note 44, at 75. In 1965, the Treasury Department had testified that it had assigned only five workers in its national office to devote full time to these enforcement duties. See 26 Cong. Q. Weekly Rep. 809 (1968).

<sup>53</sup> Robert Sherrill, *supra* note 6, at 66.

<sup>54</sup> George D. Newton & Franklin E. Zimring, *supra* note 2, at 6.

<sup>55</sup> *Id.* at 89.

<sup>56</sup> *Id.* at 13.

<sup>57</sup> *Id.* at 83.

<sup>58</sup> George D. Newton & Franklin E. Zimring, *supra* note 2, at 89; see also *id.* at 201-40 (App. G).

<sup>59</sup> *Ibid.*



commerce after the F.F.A. became effective was struck down,<sup>60</sup> it was often possible to trace the commercial history of the particular gun and file federal firearms charges against a defendant in lieu of or in addition to the offense for which he was arrested.<sup>61</sup> The law also could be and was used as a tool to generate criminal liability for a convicted felon who had come to the special attention of federal authorities for other reasons—in much the same fashion that Al Capone's income tax, rather than the origins of his income, proved his undoing.<sup>62</sup>

Although Homer Cummings was disappointed, the record seems to indicate that Congress got pretty much what it wanted in the F.F.A.: a symbolic denunciation of firearms in the hands of criminals, coupled with an inexpensive and ineffective regulatory scheme that did not inconvenience the American firearms industry or its customers. The Justice Department continued to recommend more extensive firearms legislation for a few years,<sup>63</sup> but the Department's emphasis on such proposals faded after Cummings' departure in 1939. Whatever the faults of the F.F.A. as a regulatory scheme, they went unnoticed in a nation where violent crime rates had been declining since the mid-1930s, and the larger issues of war and economic recovery preoccupied public attention.

The period from 1939 (when the initial regulations under the F.F.A. were issued) through 1957 (when new regulations were proposed) was almost completely uneventful in relation to federal firearms control. There was also very little legislative activity on the state and local level.

In 1957 the Commissioner of Internal Revenue proposed a number of changes in the regulations governing the manufacture and sale of firearms

<sup>60</sup> *United States v. Tot*, 131 F.2d 261 (3d Cir. 1942).

<sup>61</sup> The minimum conditions for tracing a gun are:

- (1) determination of the manufacturer;
- (2) serial number;

- (3) that the manufacturer keep records as required by the F.F.A.

It is not necessary in the prosecution of a felon to prove how or when he acquired the weapon if the weapon was first sold after 1968. Gun Control Act of 1968, § 105(a), 82 Stat. 1226. For discussion of the F.F.A. provisions see *United States v. Tot*, 131 F.2d 261, 270 (3d Cir. 1942).

<sup>62</sup> Mark Leff, *supra* note 9, at 13. See also John Brabner-Smith, *supra* note 23, at 402; Homer Cummings October 5, 1937, Speech, in *Selected Papers* at 86 (Carl Brent ed., 1939); Herbert Corey, Farewell, Mr. Gangster!, at 133 (1936).

<sup>63</sup> *Pistol Control Sought*, N.Y. Times, Jan. 12, 1936, § 4, at 11; U.S. Dep't of Justice, Annual Report of the Att'y Gen'l 1935, Jan. 4, 1936 message, at 2. See also Jan. 6, 1937 message in *id.* 1936, at 3; Jan. 3, 1938 message in *id.* 1937, at 9-10; December 31, 1938 message in *id.* 1938, at 8; Jan. 3, 1940 message in *id.* 1939, at 9; Jan. 3, 1941 message in *id.* 1940, at 13; 1947 message in *id.* 1946, at 28. Attorney-General Cummings' Jan. 5, 1934, message to Congress (in *id.* 1933, at 1) also recommended firearms registration. Thus the Jan. 5, 1935 message was the only one in F.D.R.'s first two terms that failed to deal with this issue.



under the F.F.A., including a serial number requirement for all firearms, a rule requiring that "permanent" dealer-records be maintained permanently rather than the six years provided in the earlier regulations, and a series of changes in the type of records that dealers were required to keep.<sup>64</sup> The proposals encountered stiff opposition from industry and gun-user groups, and the regulations adopted in 1958 were somewhat less ambitious: the record requirement was set at ten years, and serial numbers were required for all firearms except .22-caliber rifles.<sup>65</sup> More important than the details of these regulations was the continued low profile maintained by the Internal Revenue Service in the enforcement of the Act, and the lack of any evident pressure on the Service or on the Congress for more stringent controls. While rates of violence remained high in the United States in comparison with other western industrial countries, violent crime rates were at far lower levels than had been experienced in the 1920s and '30s, and the public fear of crime had diminished to levels that, in hindsight, symbolized domestic tranquility.

The first indication that a further federal role in firearms regulation might come, and the first modern origin of the Gun Control Act of 1968, was the increase in inexpensive imported firearms, largely military surplus, that started to make serious inroads into the United States market in the mid-1950s. In 1955 domestic manufacturers produced 556,000 rifles for the United States civilian market, and only 15,000 rifles were imported into this country for domestic sale;<sup>66</sup> by 1958 the number of rifles imported into the United States had increased to 200,000, whereas domestic production had fallen to 405,000.<sup>67</sup>

In 1958 Senator John F. Kennedy of Massachusetts, a gun-producing state, proposed a bill to prohibit "the importation of firearms originally manufactured for military purposes."<sup>68</sup> This frankly protectionist bill did not pass, but the Congress did prohibit the re-importation of those weapons that the United States had sent abroad under its foreign-assistance act.<sup>69</sup>

Foreign handguns, both military surplus and new production, began to make some impact on the United States market during the same period. In 1955, about 67,000 handguns were imported for sale to United States civilians. By 1959 annual imports were 130,000; by 1966 the figure rose to 500,000; and by 1968 unit volume of imported handguns had exceeded the million mark.<sup>70</sup> The inexpensive, low-caliber, new-production handguns that com-

<sup>64</sup> George D. Newton & Franklin E. Zimring, *supra* note 2, at 101-02.

<sup>65</sup> *Id.* at 102.

<sup>66</sup> *Id.* at 172-73 (Tables C-1 and C-2).

<sup>67</sup> *Ibid.*

<sup>68</sup> S. 3714, 85th Cong., 2d Sess. (1958).

<sup>69</sup> Mutual Security Act of 1958, § 403(k), 22 U.S.C. § 1934(b) (1970).

<sup>70</sup> George D. Newton & Franklin E. Zimring, *supra* note 2, at 173 (Table C-2).

prised the bulk of United States imports by the mid-1950s did not present the same type of direct competition to established American firms as the rifle imports of the 1950s—domestic handguns were thought to be of higher quality, and the civilian handgun market was growing quickly enough after 1965 to accommodate substantial increases in both domestic and imported weapons.<sup>71</sup> Yet the imported handgun was a specially vulnerable weapon to legislative attack, because it was cheap and thus available to a broader spectrum of the population, it was without the redeeming social virtue of a law enforcement or sporting use, and the importers of such weapons had far less political influence than domestic manufacturers.<sup>72</sup>

Some observers have suggested a direct connection between the increase in gun imports and the renewal of congressional interest in the easy availability of guns in the United States,<sup>73</sup> but the evidence on this is spotty.<sup>74</sup> When Senator Thomas Dodd of Connecticut (a major gun-producing state) became chairman of the Senate Subcommittee on Juvenile Delinquency in 1961, he “directed the staff of the Subcommittee to initiate a full-scale inquiry into the interstate mail order gun problem.”<sup>75</sup> During 1961-1962 staff studies of mail order guns sold to residents of the District of Columbia and several states provided evidence that “criminals, immature juveniles, and other irresponsible persons were using the relative secrecy of the mail order-common carrier method of obtaining firearms, because they could not purchase guns under the laws in their own jurisdictions.”<sup>76</sup>

Armed with these studies, the Dodd Committee conducted hearings in 1963 that sought to draw public attention to Dodd’s proposal to prohibit the sale of handguns by mail order to persons under eighteen, and require a notarized affidavit to be submitted with handgun mail orders stating that the customer was old enough to purchase the gun and otherwise legally entitled to receive it.<sup>77</sup> The emphasis in these hearings was on the mail order mechanism, juveniles and felons as purchasers, and “the cheap products which are so fre-

<sup>71</sup> *Id.* See also *id.* at 18, 20.

<sup>72</sup> Federal Firearms Act [II], *supra* note 44, at 975.

<sup>73</sup> Richard Harris, *Annals of Legislation: If You Love Your Guns*, *New Yorker*, April 20, 1968, at 57; Robert Sherrill, *supra* note 6, at 92-93.

<sup>74</sup> While the representative of the National Shooting Sports Foundation, an industry group, was not displeased with the Dodd handgun proposal, there is no firm evidence that the proposed ban on mail-order weapons would itself represent any protection to domestic manufacturers. The later marriage of importation bans with proposals to strengthen controls of interstate sales does not establish that the controls were simply a front for protectionist legislation.

<sup>75</sup> Thomas Dodd, *Federal Firearms Legislation, 1961-1968*, at 3 (unpublished report prepared for the Subcomm. to Investigate Juvenile Delinquency of the S. Comm. on the Judiciary, 90th Cong., 2d Sess., 1968).

<sup>76</sup> *Id.* at 10.

<sup>77</sup> This proposal became S. 975, introduced August 2, 1963, 87th Cong., 1st Sess.

quently sold via mail order.”<sup>78</sup> The bill was drafted with Department of the Treasury help, and received support from an industry spokesman at the 1963 hearings.<sup>79</sup>

Five days after the assassination of John F. Kennedy, Senator Dodd amended his bill to cover mail order traffic in shotguns and rifles.<sup>80</sup> The bill died in the Senate Commerce Committee in 1964,<sup>81</sup> but the forces leading to the adoption of the Gun Control Act of 1968 were already at work.

In March of 1965, President Johnson sent Congress a message on crime that requested an extension of the federal role in firearms regulation.<sup>82</sup> The administration proposal, introduced as Senate Bill 1592, had been drafted by the Treasury staff with support from the Department of Justice.<sup>83</sup> The bill contained most of the key strategic elements of the Gun Control Act of 1968: increases in the fees and regulation of firearms dealers; a federal minimum age requirement for handgun (21) and long gun (18) purchase; and a prohibition of handgun sales to residents of another state. The bill was not referred out of committee.<sup>84</sup>

In January 1967 a similar bill was introduced by Senator Dodd and later amended to conform to the administration proposal forwarded that February.<sup>85</sup> The bill was referred to the Judiciary Committee, the parent committee of Dodd’s Subcommittee on Juvenile Delinquency. In April 1968, after failing to support the administration proposal, the Judiciary Committee reported out a bill modeled on the President’s proposal but limiting the ban on sales to citizens of another state to handguns.<sup>86</sup> This bill became Title IV of the Omnibus Crime Control Act of 1968, passed by the Senate in May 1968 and by the House on June 6, the day after the shooting of Robert F. Kennedy.<sup>87</sup>

<sup>78</sup> Interstate Traffic in Mail Order Firearms, *supra* note 17, pt. 14, at 3497 (1963) (testimony of Howard Carter, Jr., Member, Board of Governors, National Shooting Sports Foundation).

<sup>79</sup> *Id.* at 3498.

<sup>80</sup> Thomas Dodd, *supra* note 74, at 13.

<sup>81</sup> *Id.* at 55.

<sup>82</sup> H.R. Doc. No. 103, 89th Cong., 1st Sess. (1965), 111 Cong. Rec. 4278 (1965).

<sup>83</sup> S. 1592, 89th Cong., 1st Sess. (1965).

<sup>84</sup> Thomas Dodd, *supra* note 74, at 26-27. A milder proposal, S. 3767, was reported out of committee and the committee report discussed S. 1592 as well. Senator Dodd asserted that supporters of his bill were planning to introduce S. 1592 as an amendment to S. 3767, but that S. 3767 was never brought up for debate. *Id.* at 24, 27.

<sup>85</sup> S. 1 (90th Cong., 1st Sess.) introduced Jan. 11, 1967, and evidently an early draft of the Johnson Administration gun proposal; and S. 1 Amendment 90 (90th Cong., 1st Sess.), the Administration’s redrafted proposal. See Federal Firearms Act [II], *supra* note 44, at 37.

<sup>86</sup> S. Rep. No. 1097, 90th Cong., 2d Sess. (1968).

<sup>87</sup> Passed the Senate May 24, 1968, 114 Cong. Rec. 14889 (1968); passed the House June 6, 1968, 114 Cong. Rec. 16300 (1968).



In the aftermath of the Robert Kennedy assassination, a number of new firearms control measures were introduced, and the proposal to ban interstate sales of long guns received new support. In October 1968 a revised Gun Control Act was signed by the President.

During the debates on the Gun Control Act and its predecessors, two other strategies of federal gun control were widely discussed. One was the creation of federal jurisdiction and mandatory prison sentences for violent crimes committed with guns.<sup>88</sup> This type of proposal was generally offered as an alternative to stricter controls on gun traffic by legislators generally opposed to gun-control laws. It received at least symbolic approval in the Gun Control Act's provision for additional penalties when crimes which are federal felonies are committed with guns.<sup>89</sup> A second approach widely discussed after the Robert Kennedy assassination was for some system of federal firearms owner registration or licensing.<sup>90</sup>

The Gun Control Act of 1968, like its 1938 ancestor, was thus something of a compromise candidate at the time of its passage—representing concessions on the part of those opposed to any further federal controls and those who desired extensive further federal involvement. The primary goal of the statute, federal assistance to state efforts at control, was not the chief aim of its sponsors nor the principal fear of its opponents.

There are other parallels between the processes leading to the 1938 and 1968 Acts. In each case, administrative concern, spearheaded by the Justice Department, provided a necessary, if not a sufficient, backdrop for congressional action.<sup>91</sup> And the symbolism of gun control seemed more important to the vast majority of Congress than the specifics of regulation. Finally, the gun control issue remained a relatively unimportant one for the Congress. No serious effort was made to oversee or evaluate the administration of the Act.<sup>92</sup> No committee of Congress maintained any special competence in the substantive issue of federal gun regulation.<sup>93</sup>

The links between domestic violence during the 1960s and the 1968 Act are important but susceptible to overstatement. The John Kennedy assassina-

<sup>88</sup> H.R. 11427, 89th Cong., 2d Sess. (1966).

<sup>89</sup> Gun Control Act of 1968, 18 U.S.C. § 924(c) (1970).

<sup>90</sup> The major bills and their sponsors: S. 3691, introduced by Dodd and supported by the President; S. 3637, Brooke; S. 3634, Tydings; H.R. 18628, Rosenthal, 90th Cong., 2d Sess. (1968).

<sup>91</sup> See text accompanying notes 24 through 39 *supra*.

<sup>92</sup> Since Senator Dodd left his subcommittee chairmanship, two sets of hearings have been held in Congress on substantive gun control matters. The Senate Subcommittee held hearings in 1971 on the "domestic Saturday Night Special." The House Judiciary Committee, Subcommittee No. 5, held hearings in June of 1972 to consider a number of firearm control proposals, including one by then Chairman Celler.

<sup>93</sup> The senior staff of the Senate Subcommittee on Juvenile Delinquency left shortly after Thomas Dodd left the Senate. Since then, I know of no staff-study relating to gun control on Capitol Hill.



tion helped focus attention on the ready availability of mail-order guns; the Martin Luther King and Robert Kennedy killings put pressure on Congress at crucial points in the legislative career of the Act, just as the escape from jail of John Dillinger had expedited the passage of the National Firearms Act of 1934. But the basic approach of the 1968 Act had been worked out by the Treasury Department in 1965. And the only legislative initiatives produced by the Robert Kennedy shooting, a series of proposals for a national strategy of licensing gun owners, did not affect the shape of the 1968 Act.

If the violence of the mid-1960s had little impact on the provisions of the Gun Control Act, it had a profound effect on the problems that the act addressed. Urban riots during the period 1964-1968 and increased fear of crime had a manifold impact on the quality of American urban life. One consequence of this increasing turmoil and fear was an increased demand for firearms as instruments of self-defense, particularly in big cities. Handgun sales, the best index of demand for urban self-defense weapons, averaged 600,000 a year during the first four years of the 1960s; by 1966 the market for handguns had doubled to 1.2 million; by 1968 the market had almost doubled again, to an estimated 2.4 million, although this figure may have been abnormally high because importers and private citizens were rushing to purchase imported handguns before the import restrictions in the 1968 act came into effect.<sup>94</sup> The increase in urban gun ownership was paralleled by an increase in urban gun violence. Perhaps the most spectacular case study of gun violence was the city of Detroit. In 1965 Detroit experienced a total of 140 homicides; 55 of these, or 39 per cent, were committed with guns. Three years later 72 per cent of Detroit's 389 killings were committed with guns.<sup>95</sup> The increase in gun violence in other urban areas, though less pronounced, was steady and substantial: during the period 1964-1968, gun homicide in the United States had increased 89 per cent, while homicide by all other means had increased 22 per cent.<sup>96</sup> By 1969 a simple majority of homicides in major urban areas were committed with handguns,<sup>97</sup> and the interstate flow of handguns into cities with restrictive state and local controls was greater than at any other time since the 1930s.<sup>98</sup>

## II. THE ENDS AND MEANS OF THE GUN CONTROL ACT

The Gun Control Act signed by President Johnson on October 22, 1968, was an omnibus measure reflecting a variety of congressional purposes.

<sup>94</sup> George D. Newton & Franklin E. Zimring, *supra* note 2, at 172-73.

<sup>95</sup> *Id.* at 74.

<sup>96</sup> F.B.I., Uniform Crime Reports, 1964, at 104 (1964); *id.* 1968, at 108.

<sup>97</sup> Data supplied by F.B.I., Uniform Crime Reports, 1969, at 7; see Figure 2 *infra*.

<sup>98</sup> See Figures 5 and 6 *infra*.

Included in the Act were amendments to the National Firearms Act of 1934, extending its coverage and relatively prohibitive tax to "destructive devices" (bombs, hand grenades, land mines, and similar mechanisms) and altering the registration provisions of the N.F.A. to rescue its registration requirement from a successful 1968 constitutional challenge.<sup>99</sup> The Act also mandated additional penalties for persons convicted of committing federal crimes with firearms.<sup>100</sup> But the major objectives of the Act were three:

- (1) Eliminating the interstate traffic in firearms and ammunition that had previously frustrated state and local efforts to license, register, or restrict ownership of guns.
- (2) Denying access to firearms to certain congressionally defined groups, including minors, convicted felons, and persons who had been adjudicated as mental defectives or committed to mental institutions.
- (3) Ending the importation of all surplus military firearms and all other guns unless certified by the Secretary of the Treasury as "particularly suitable for . . . sporting purposes."<sup>101</sup>

The centerpiece of the new regulatory scheme was the ban on interstate shipments to or from persons who do not possess federal licenses as dealers, manufacturers, importers or collectors, coupled with the declaration that it was unlawful for any person other than a federal-license holder to engage in the business of manufacturing or dealing in firearms, whether or not such a business involves interstate commerce.<sup>102</sup> The Act thus granted federal licensees a monopoly on interstate transactions and required a federal license to engage in any but isolated intrastate transactions.

While private citizens were to be excluded from commerce in guns, federally licensed dealers were to be much more strenuously regulated. The fees for all federal licenses were increased (the dealer license from \$1 to \$10),<sup>103</sup> minimum standards for licensees were set,<sup>104</sup> and the Secretary of the Treasury was given broad powers to establish mechanisms for regulating licensed manufacturers and dealers.<sup>105</sup>

Having established federal regulation of those in the business of making, selling and importing firearms, as well as all interstate aspects of commerce in firearms, the Act pursued its major aims with a series of criminal prohibitions.

<sup>99</sup> National Firearms Act, Int. Rev. Code of 1954, § 5848.

<sup>100</sup> Gun Control Act of 1968, 18 U.S.C. § 924(c) (1970).

<sup>101</sup> Gun Control Act of 1968, 18 U.S.C. § 925(d)(3) (1970).

<sup>102</sup> Gun Control Act of 1968, 18 U.S.C. § 922(a) (1970).

<sup>103</sup> Gun Control Act of 1968, 18 U.S.C. § 923(a)(3)(C) (1970).

<sup>104</sup> Gun Control Act of 1968, 18 U.S.C. § 923(d) (1970).

<sup>105</sup> Gun Control Act of 1968, 18 U.S.C. § 926 (1970).

### A. *State Aid*

To effectuate the state aid goals of the Act, all nonlicensees were prohibited from shipping guns to other private parties in another state and from transferring guns to persons they knew or had reason to believe were residents of another state;<sup>106</sup> and dealers were prohibited from shipping to private citizens in other states and from selling to those who the dealer knew or had reason to believe resided out of state.<sup>107</sup> In the regulations promulgated under the Act, all dealers had to sign a form indicating a customer had produced identification showing he was not a resident of another state. This form, which also identified the firearms sold and gave the purchaser's name, address and description, was retained by the dealer and made available for inspection by Alcohol, Tobacco and Firearms agents.<sup>108</sup> Thus, while the Act required the same showing of knowledge or notice to convict the dealer as the Federal Firearms Act of 1938, the duty of the dealer to obtain identification made a sale to an out-of-state resident depend on either false identification by the customer or willful law violation by the dealer. Private citizens, who could sell a gun or two from time to time, were not under a duty to verify the name and address of a transferee or to keep a record of the transaction.

The regulation of interstate traffic (in the Act and its regulations) was stronger than under the Federal Firearms Act, but there were, of course, opportunities for evasion. The sale of guns by nondealers was, from the beginning, outside of any record-keeping requirement of the Act. For a private party, the knowing transfer or interstate transportation of firearms was illegal but rarely dangerous.<sup>109</sup> Moreover, enforcing the ban on sales to residents of another state required federal agents to inspect the forms kept by the dealers.

The credibility of the enforcement system was tied from the outset to the amount of manpower the government invested in inspecting dealer records. However, from the dealer's standpoint there was much greater risk in maintaining a high volume of illegal sales than was true before the Act, inasmuch as thorough periodic inspection could turn up patterns of illegal sales. For nondealers who used false identification to obtain guns and transport them to other states the threat posed by the record system was far more modest; the use of a false name in a federal form meant that inspection of the form and an attempt by enforcement personnel to verify the identity of the purchaser could show that the law was broken but would give no clue as to who broke the law or where the gun or offender could be located. A nondealer

<sup>106</sup> Gun Control Act of 1968, 18 U.S.C. § 922(e) (1970).

<sup>107</sup> Gun Control Act of 1968, 18 U.S.C. § 922(b) (1970).

<sup>108</sup> Treas. Reg. § 178.124 (1968).

<sup>109</sup> Gun Control Act of 1968, 18 U.S.C. § 922(a)(5) (1970).



could spread his purchases out among a number of legitimate dealers, thereby obtaining a fair number of guns with relative safety for long periods of time. In order to apprehend violators of this type, enforcement agents would have to intervene at the other end of an interstate transaction, making, through undercover work, sales of firearms by nonlicensees hazardous.

Some of the problems associated with enforcing the ban on sales to non-state residents can be tied to the decentralized nature of the firearms transaction records under the Act. The decision to keep records decentralized was made by the Treasury and endorsed by Congress<sup>110</sup> in part to keep the regulatory aspects of the federal law distinct from any system that could be called "gun registration." The decentralized records were a tightened-up version of the record-keeping required by the Federal Firearms Act of 1938, whereas "registration" was the second dirtiest word in the vocabulary of any opponent of federal firearms regulation (confiscation was the ultimate expletive but the two were often equated).<sup>111</sup> In part, the bad reputation of "registration" may stem from the use of a registration requirement in the National Firearms Act—where the real legislative intent was to reduce drastically ownership of covered weapons.<sup>112</sup> But whatever its origins this fear of central records is reflected in both the Gun Control Act and the regulations issued under its mandate.

### B. *Ownership Prohibitions*

The second major aim of the Gun Control Act was to extend the list of classes prohibited by federal law from gun ownership and to strengthen the regulatory mechanism designed to enforce the federal prohibition. The Federal Firearms Act had prohibited the receipt of a firearm by felons, fugitives from justice, persons then under felony indictment in state or federal courts, and persons not qualified to own the firearm in question in their state or locality.<sup>113</sup> The list of prohibited classes in the 1968 Act was larger in the number of persons prohibited and included a wide variety of disqualified classes. The new federal prohibition barred licensees from the knowing transfer of a gun or ammunition to:

- (1) Minors (under eighteen for shotguns and rifles; under twenty-one for handguns).

<sup>110</sup> Gun Control Act of 1968, 18 U.S.C. § 923(g) (1970); Treas. Reg. § 178.121 (1968). See also Federal Firearms Act [II], *supra* note 44, at 94-95; note *infra*.

<sup>111</sup> Robert J. Kukla, *Gun Control: A Written Record of Efforts to Eliminate the Private Possession of Firearms in America* (1973).

<sup>112</sup> See text accompanying note 33 *supra*.

<sup>113</sup> Federal Firearms Act, ch. 850, § 2(f), 52 Stat. 1251 (1938).



- (2) Persons convicted of a state or federal felony, as well as the fugitives and defendants under indictment covered by the F.F.A.
- (3) Adjudicated mental defectives and any person who had been committed to a mental institution.
- (4) Persons who are unlawful users of or "addicted to marijuana or any depressant or stimulant drug . . . or narcotic drug."<sup>114</sup>

In addition to these prohibitions, it was unlawful for any person in the prohibited classes to receive any firearm or ammunition that had been shipped in interstate commerce.<sup>115</sup> And Title VII of the Gun Control Act also prohibited felons, persons who have received dishonorable discharges from the Armed Forces, former United States citizens and aliens illegally in the United States from receiving, possessing or transporting guns "in commerce or affecting commerce."<sup>116</sup>

The purpose of these prohibitions was to deny access to guns and ammunition to these defined special risk groups or, failing that, to punish possession of a firearm as a federal offense, whether or not the possession was in violation of local law. In order to understand how these prohibitions might work in practice, it is necessary to refer to the general scheme of regulation established by the Act. Since it is unlawful for a dealer, manufacturer or importer to transfer a firearm or ammunition to a nonlicensee only if the transferor knows or has reason to believe his customer is ineligible to receive the commodity, the dealer can be apprehended for violating the law only when the regulations governing his transfer require him to verify his customer's eligibility.<sup>117</sup>

The federal ban on sales to minors was supported by a regulation requiring the dealer to verify his customer's age by inspecting a document that shows the age on its face.<sup>118</sup> Unless the customer uses false identification, minors cannot buy guns from dealers who are in compliance with the Gun Control Act. This is not to say that firearms were unavailable to minors; guns could be purchased from nondealers, who were not required to verify age prior to transfer, and minors could always persuade adults to buy guns for them from federally licensed dealers. But the direct sale from dealer to minor was regulated by the verification requirement, in the same way that the ban against sale to nonresidents was supported by the requirement that a transferee's address be verified.<sup>119</sup>

The ban against sales to felons, drug users and other prohibited classes was not supported by a similar verification procedure. A dealer needed only

<sup>114</sup> Gun Control Act of 1968, 18 U.S.C. § 922(d)(3) (1970).

<sup>115</sup> Gun Control Act of 1968, 18 U.S.C. § 922(h) (1970).

<sup>116</sup> Gun Control Act of 1968, 18 App. U.S.C. § 1202(a) (1970).

<sup>117</sup> Gun Control Act of 1968, 18 U.S.C. § 922(b) (1970).

<sup>118</sup> Treas. Reg. § 178.124(c) (1968).

<sup>119</sup> Treas. Reg. § 178.124(d) (1968).

to take his customer's word for the fact that he was not ineligible to receive a gun or ammunition; the customer who made false statements of this kind would be criminally liable if the transaction were later investigated, but the dealer was not in jeopardy. Thus, while obtaining a firearm is illegal for these persons, the regulation of dealers did not shut off the access to guns for those who were willing to misrepresent their status.

The Act's limited dealer verification system approaches the natural boundaries of personal identification in the United States today. Age and address are two elements of personality that appear on drivers' licenses, selective service cards, and other significant documents that almost all adults carry. We do not live in a society that issues cards to all citizens showing whether they have been committed to mental institutions or convicted of felonies. Verification of such status would thus have to depend either on taking the customer's word for it (and auditing transfer records later to detect misrepresentation), or on creating separate screening procedures. One method of dealer verification would be a system where the dealer forwards a notice of a proposed transaction to a federal agency, which then checks a central record file to determine a customer's eligibility. Such a system, if designed to verify eligibility before purchase, would require a waiting period before any covered firearm could be purchased. It would also require centrally stored federal records of all the data relevant to determining eligibility, or elaborate referrals to other state or federal record files.<sup>120</sup> An alternative system would be for persons who desire to purchase guns to establish their eligibility in advance by applying for a license and use the license as the means by which the dealer verifies that he is making a lawful firearm or ammunition sale.<sup>121</sup>

The Gun Control Act of 1968 stopped short of mandating either licensing or the cumbersome nationwide verification of individual transactions. With respect to felons, mental defectives, and drug users, the dealer's position under the 1968 Act is similar to his status under the Federal Firearms Act of 1938. The illegal customer may, however, be at greater risk. If a felon uses his own name and lies about his eligibility on the Form 4473 he is required by regulation to fill out, an audit of the dealer and check of the customer's criminal record will show he had violated at least two federal criminal laws,<sup>122</sup> and he can be traced from the purchase record.<sup>123</sup> If the customer uses false identification, gets someone else to buy from a dealer,

<sup>120</sup> For information on the number of agencies that would have to be checked, at highly optimistic cost estimates, see George D. Newton & Franklin E. Zimring, *supra* note 2, at 129-30.

<sup>121</sup> A state law, *e.g.*, is the Illinois statute Ill. Rev. Stat., ch. 38, §§ 83-3, 83-4 (1970).

<sup>122</sup> Gun Control Act of 1968, 18 U.S.C. § 922(h) (1970); Gun Control Act of 1968, 18 U.S.C. § 922(a)(6) (1970).

<sup>123</sup> Gun Control Act of 1968, 18 U.S.C. § 922(b)(5) (1970).

or buys from a nonlicensee, the federal record system will not constitute a direct threat to him. However, if state or federal agents find him with a gun, a check of existing records will show whether the firearm was sold after the effective date of the Act and was thus received by him in violation of federal law.<sup>124</sup>

In sum, the scheme of regulation adopted in 1968 was of limited use in making firearms more difficult for ineligible classes to obtain, but the federal prohibitions and record-keeping requirements made it possible to convict persons ineligible to have guns if they were later apprehended with a firearm.

### C. *Limitation of Imports*

Two provisions of the Gun Control Act of 1968 establish a federal strategy for limiting imported guns. Section 922(1) declares it unlawful "for any person knowingly to import or bring into the United States any firearm or ammunition . . ." or "knowingly . . . to receive" any imported firearm or ammunition "except as provided in section 925(d)."<sup>125</sup> Section 925(d) allows the Secretary of the Treasury to permit importation if "the person importing . . . the firearm or ammunition establishes to the satisfaction of the Secretary" that the firearm

- (1) is being imported for scientific, research or training purposes; or
- (2) is unserviceable and is being imported as a curio or museum piece; or
- (3) is not a weapon covered by the revised National Firearms Act "and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms"; or
- (4) is being reimported by the person who took it out of the United States.<sup>126</sup>

Apparently, the Secretary of the Treasury was not compelled by the Act to permit the importation of any firearm or ammunition (he "may authorize" imports, rather than being told he "shall authorize" them), but he is forbidden to authorize imports except in the four circumstances outlined above. Of the exceptions listed by the section, only subsection (3) is of importance to the importation of firearms for the civilian market. Subsection (3) expressly bans the importation of surplus military firearms and allows the authorization of other firearms and ammunition only if they are "generally recognized as particularly suitable for or readily adaptable to sporting purposes."<sup>127</sup>

While the general intent of Congress in limiting firearm imports is reason-

<sup>124</sup> Gun Control Act of 1968, § 105(a), 82 Stat. 1226.

<sup>125</sup> Gun Control Act of 1968, 18 U.S.C. § 922(1) (1970).

<sup>126</sup> Gun Control Act of 1968, 18 U.S.C. § 925(d) (1970).

<sup>127</sup> Gun Control Act of 1968, 18 U.S.C. § 925(d)(3) (1970).



ably clear, the intended scope of the exception in section 925(d) is not readily discernible from its language or legislative history.<sup>128</sup> The term "sporting purposes" is not defined in the statute, making it difficult to give a meaning to the phrase "particularly suitable to sporting purposes." Does this mean that a firearm must be a fungible sporting weapon, as useful as but no more useful than a domestically produced firearm, or that a firearm must be in some way uniquely suitable to a particular sporting purpose, so that exclusion of the gun would deny United States residents access to a form of shooting sport? If the latter is the correct interpretation, why must a gun that needs no adaptation be "particularly suitable," while a gun that needs adaptation must only be "readily adaptable" to a sporting purpose?

There are reasons to suppose that Congress wanted to give this exception a narrow meaning. The other exceptions described in section 925(d) are quite specific and apply to particular firearms rather than classes of firearms, and the language introducing the section appears to give the Secretary discretion to ban the import of even those weapons that could qualify under 925(d).<sup>129</sup>

The regulations issued to implement the ban on importation delegated responsibility for approving import permits to the Commissioner of Internal Revenue and provided that he could decide the "sporting purposes" issue "with the assistance of an advisory board to be appointed by the Commissioner."<sup>130</sup> The regulations did not attempt to define what was meant by "sporting purposes." They did, however, provide for the compilation of an "import list" of firearms, thereby permitting the approval of guns for import in large numbers by different firms, once the specific model had been approved.<sup>131</sup>

It is difficult to characterize with precision the theory that animated the provisions of section 925(d) and its supporting regulations. As "protectionist" legislation, the ban on military surplus makes sense, but the further restriction on firearms not suitable for sporting purposes is puzzling. Certainly a simple ban on military surplus would have produced fewer objections to the effect that the United States was discriminating against its trading partners by prohibiting the importation of weapons it allowed to be domestically produced.<sup>132</sup> Further, the "sporting purposes" test would seem to have

<sup>128</sup> Gun Control Act of 1968, 18 U.S.C. § 925(d) (1970). See Federal Firearms Act [I], hearings on S. 1592 before the Subcomm. to Investigate Juvenile Delinquency of the S. Comm. on the Judiciary, 89th Cong., 1st Sess., at 68-69 (1965).

<sup>129</sup> "The Secretary may authorize a firearm or ammunition to be imported . . . if the person importing . . . the firearm establishes to the satisfaction of the Secretary. . . ." Gun Control Act of 1968, 18 U.S.C. § 925(d) (1970).

<sup>130</sup> Treas. Reg. § 178.112(c) (1968).

<sup>131</sup> Treas. Reg. § 178.112(c) (1968).

<sup>132</sup> "Saturday Night Special" Handguns, S. 2507, hearings before the Subcomm. to



allowed the importation of firearms, particularly shotguns, that had been troublesome competition for American manufacturers,<sup>133</sup> while excluding firearms, particularly low-priced handguns, that had not posed an important competitive threat to the established United States firearms industry.<sup>134</sup> Finally, if the scheme of regulation was protectionist, one would have expected a more protectionist interpretation of the broad powers delegated by Congress than turned out to be the case.<sup>135</sup>

At least in part, Congress seems to have been responding to a perceived threat to public safety that resulted from the importation of low-priced "Saturday Night Specials" from abroad. Testimony before Congress suggests three themes associated with these guns: (1) they were cheap and plentiful; (2) they were low-quality and unsafe; (3) they were used in violent crimes. The image projected was not just that of a gun but of a gun and a user class. And the goal implicit in the legislation apparently was to reduce access to guns for high-risk groups by restricting the supply of cheap guns, particularly cheap handguns.<sup>136</sup>

If this was the congressional design, the legislative scheme was deficient in at least three respects. First, there was no guarantee that imposing a "sporting purposes" test would automatically reduce the number of cheap imported handguns involved in crime. Second, while the law covered both firearms and ammunition, it did not explicitly cover the importation of firearms parts; while the Act defined two major parts of a firearm as "firearms" and thus subject to restriction, other parts could be imported from abroad and assembled in the United States.<sup>137</sup> Finally, of course, there was no guarantee that the same weapons that had been imported could not be domestically produced at slightly higher price and cause the same problems. A ban on imports might have important short-run effects on civilian acquisition of firearms and some long-term impact as a result of increased prices. But if the law was addressed to the issue of civilian ownership of firearms unsuitable for sporting purposes, the artificial distinction between foreign and domestic manufacture in the Gun Control Act of 1968 left an aura of

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Investigate Juvenile Delinquency of the Senate Comm. on the Judiciary, 92d Cong., 1st Sess., at 132-33 (1971).

<sup>133</sup> George D. Newton & Franklin E. Zimring, *supra* note 2, at 172-73.

<sup>134</sup> *Id.*

<sup>135</sup> See U.S. Dep't of the Treasury, Int'l Rev. Ser., Treasury, Postal Service and General Government Appropriations for Fiscal Year 1974, hearings before a Subcomm. of the House Comm. on Appropriations, 93d Cong., 1st Sess., pt. 1, at 671 (1973); see Table 6 *infra*. See also note 163 *infra*.

<sup>136</sup> Federal Firearms Act [II], *supra* note 44, at 44.

<sup>137</sup> Gun Control Act of 1968, 18 U.S.C. § 921(a)(3) (1970); Treas. Reg. § 178.11 (1968).

cognitive dissonance that was to become one of the major gun control issues of the 1970s.

### III. MEASURING THE EFFECTS OF THE ACT

With relatively minor amendments,<sup>138</sup> the Gun Control Act of 1968 has been the governing federal firearms control policy for more than five years, a period sufficient to invite inquiry about its impact. This part of the article (1) presents data on the administration of the Act, (2) explores the rate of civilian acquisition and use of handguns after the "Saturday Night Special" ban, and (3) analyzes how the act affected the interstate flow of handguns into states and cities that attempt to restrict gun ownership.

#### A. *Administering the Act*

One important lesson to be derived from studying the Federal Firearms Act of 1938 is the critical role played by those who administer and enforce firearms legislation. Enforcement of the 1968 Act—as was the case with the two prior efforts at firearms control—was vested in the Department of the Treasury and, within the Treasury, in the Bureau of Internal Revenue. In 1942 the Commissioner of Internal Revenue assigned firearms enforcement responsibility to a division within his bureau that supervised the tax collection, regulation and criminal enforcement functions of federal law in relation to alcohol and tobacco. The Alcohol, Tobacco, and Firearms Division (A.T.F.) had a central office in Washington, with a director who was subordinate to the Commissioner of Internal Revenue, and seven regional administrators, each responsible to the Regional Director of the Internal Revenue Service. In 1972 the Treasury reorganized A.T.F. as a separate bureau, no longer under the Commissioner of Internal Revenue.<sup>139</sup>

The old A.T.F. division had been responsible for both criminal enforcement and regulatory enforcement of federal firearms laws since 1951, but firearms regulation had a relatively low priority and a small share of the division's manpower was detailed to firearms enforcement.<sup>140</sup> The Gun Control Act of

<sup>138</sup> Title II, § 13, of the Omnibus Crime Control Act of 1970, Pub. L. No. 91-644, 84 Stat. 1880, 1889-90 amended § 924(c) of Title 18 to provide an additional sentence of not less than one year nor more than ten years for federal crimes in which a firearm is used or for federal crimes in which a firearm is carried unlawfully. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to not less than two (used to be five) nor more than twenty-five years. The court shall not suspend the sentence in the case of a second or subsequent conviction or give a probationary sentence. Section 13 prohibited allowing terms of imprisonment imposed under this subsection from running concurrently with any term of imprisonment imposed for the commission of such felony.

<sup>139</sup> T.D.O. No. 221, 1972-1 Cum. Bull. 777 (1972).

<sup>140</sup> See note 52 *supra*.

1968 and support within the Administration for firearms regulations shifted the manpower priorities of A.T.F. rather quickly. During fiscal 1968, the last full fiscal year prior to the Act, 311 man-years were listed as devoted to firearms enforcement.<sup>141</sup> In fiscal 1970, the first full year after the Act went into effect, enforcement effort was reported as 814 man-years.<sup>142</sup> Thus, an early impact of the Act and of the interest in gun regulation that motivated its passage was to put the federal government in the firearms regulation business at a level of manpower that was much greater than in prior years.

The two major areas in which A. T. F. invests manpower are "regulatory enforcement" and "criminal enforcement" of the federal firearms laws.<sup>143</sup> Regulatory enforcement is the supervision of federal licensees—importers, manufacturers, and dealers. At the dealer level, the key tasks of regulatory enforcement are the investigation of initial applications for dealer licenses and compliance investigations to determine whether dealers are conducting business in accord with federal law. The investigation of an initial application involves an inspection of the proposed premises, a background investigation of the applicant, and an interview about the nature of the business that is contemplated. A compliance investigation involves re-inspection of business premises, inspection of the dealer's records, and an audit of a few firearms transaction report forms to determine whether the information is recorded properly and whether a check of the customer's listed address and criminal record shows any violation of federal law. Apparent violations of law may, in the agent's discretion, be referred to the criminal investigation staff in the same A.T.F. office for further investigation.

A larger share of A.T.F. manpower is devoted to criminal enforcement activities by special agents with arrest powers.<sup>144</sup> While regulatory enforcement is focused on dealers with federal licenses, criminal enforcement activities are devoted to the broad spectrum of illegal firearms possession and traffic. A relatively small part of criminal enforcement work involves licensed dealers—estimated at less than 30 per cent, with no precise breakdown available.<sup>145</sup> Other types of investigation include undercover work to find black-market sellers, investigation of persons who are suspected of illegal possession as a result of information passed on by regulatory enforcement

<sup>141</sup> Estimates provided by Regional Offices, U.S. Bureau of Alcohol, Tobacco and Firearms.

<sup>142</sup> *Ibid.*

<sup>143</sup> Appropriations for Fiscal Year 1974, *supra* note 136, at 682-83, 686.

<sup>144</sup> *Id.* at 705.

<sup>145</sup> At present, the management information system used by the Bureau of Alcohol, Tobacco, and Firearms does not generate data on percentage of criminal enforcement devoted to dealers.



staff, local police or informants, and investigation of persons who are special targets of local or federal authorities.

Available statistics, though incomplete, give some indication of A.T.F. performance after the Gun Control Act of 1968 came into existence. As to regulation, the first effect of the Act was to generate the need to make a large number of investigations of applications for dealer licenses. The Treasury had hoped that raising the annual fee for federal dealer licenses to ten dollars and instituting standards for granting licenses would reduce the number of persons applying for licenses, thereby making meaningful regulation of dealer activities feasible. But the higher fee was offset by the fact that, after the Act, the only way to receive firearms in interstate commerce was to obtain a federal license. The number of dealer and collector licenses in effect never dropped below 60,000<sup>146</sup> and is presently estimated at 160,000, compared to about 100,000 during the early 1960s.<sup>147</sup>

The need to investigate license applications reduced the manpower available for compliance investigations and, to some extent, for criminal enforcement initiatives. The press of putting the law into effect, and the decentralized tradition of A.T.F. activities, also put limits on the ability of A.T.F. to invest resources in strategic planning to define priority problems and measure the effectiveness of regulatory and criminal enforcement efforts. And the focus on initial applications and other "start-up costs" associated with the Act were followed, in 1970, by a federal law requiring A.T.F. to regulate explosives.<sup>148</sup>

Yet criminal enforcement activities did pick up substantially, as shown by the summary data on federal firearms cases for the fiscal years 1968-1973 in Table 1.

TABLE 1  
FEDERAL FIREARMS LAW CASES RECOMMENDED FOR PROSECUTION, INDICTMENT  
AND CONVICTIONS BY FISCAL YEAR—1968-73

	1968	1969	1970	1971	1972	1973
Cases Recommended for						
Prosecution by A.T.F.	375	1341	3212	3407	4031	3283
Indictments	175	331	1309	1888	2444	2257
Convictions	89	178	577	1148	1451	1719

Source: U.S. Treasury Dep't, Bureau of Alcohol, Tobacco and Firearms, Statistics Division.

<sup>146</sup> Personal communication from Carl Perian (Phoenix, Arizona, April 3, 1974).

<sup>147</sup> Personal communication from Peter Velde (Phoenix, Arizona, April 3, 1974).

<sup>148</sup> Organized Crime Control Act of 1970, Title XI, §§ 841-849, 18 U.S.C. §§ 841-849 (1970). Section 847 vests administration of the chapter in the Secretary of the Treasury. Delegation Order No. 31 (Rev. 2), 1970-2 Cum. Bull. 487, delegates regulation powers to the Bureau of Alcohol, Tobacco, and Firearms.



As Table 1 shows, cases recommended for prosecution rose from 375 during fiscal 1968 (the last full year before the passage of the Act) to over 3200 during 1970 (the first full fiscal year after). Convictions, which occur some time after enforcement efforts end, increased from 89 during fiscal 1968 to 1148 during fiscal 1971.

Some data are available on the pattern of criminal enforcement before and after the Gun Control Act. The statistics division of A.T.F. records information on charges recommended and results by the title in the Gun Control Act under which charges were recommended. This gives some indication of the type of activity that led to the recommendation of charges, because Title II of the Gun Control Act deals with machine guns, sawed-off shotguns, and destructive devices subject to special taxes and registration, while Title VII of the Act deals exclusively with the receipt or possession of firearms by prohibited classes. This type of reporting does not give an accurate picture of the extent of enforcement activity relating to interstate flow of weapons, inasmuch as Title I of the Act, which prohibits such transfers, also prohibits dealing in firearms without a federal license and a variety of other activities.<sup>149</sup> Table 2 shows the pattern of criminal enforcement by fiscal year for A.T.F. referrals for prosecution.

The figures in Table 2 suggest a continued heavy emphasis by A.T.F. on

TABLE 2  
PERCENTAGE DISTRIBUTION OF CASES REFERRED FOR PROSECUTION BY TYPE OF CHARGE  
BY FISCAL YEAR 1968-73

	1968	1969	1970	1971	1972	1973
National Firearms Act Charges (N.F.A. Title II of the Gun Control Act)	55	49	36	42	39	39
Prohibited Person Re- ceiving or Possessing a Firearm <sup>a</sup> (Federal Firearm Act and Title VII of the Gun Control Act)	39	39	35	34	27	29
Title I of Gun Control Act			22	19	30	28
Combined Charges <sup>b</sup>	5	12	7	5	4	4
Total	100% (375)	100% (1341)	100% (3212)	100% (3407)	100% (4031)	100% (3283)

<sup>a</sup> Includes any case with a Title VII recommendation.

<sup>b</sup> Excludes Title VII cases.

Source: U.S. Treasury Dep't, Bureau of Alcohol, Tobacco & Firearms, Statistics Division.

<sup>149</sup> Gun Control Act of 1968, 18 U.S.C. § 922 (1970).

the special class of weapons regulated under the provisions of the amended National Firearms Act (heavy in relation to the number of such weapons in circulation), and indicate that at least as many prosecutions are recommended because a prohibited person has been found in possession of or has received a firearm as are the result of detecting violations of the ban on sales to nonstate residents and illegal transportation and sales.

What these figures do not show is the proportion of A.T.F. enforcement effort that is devoted to the "state aid" aims of the Act, or the impact of A.T.F. criminal enforcement on the flow of guns. No figures are kept on the proportion of criminal enforcement effort or referrals that relate to dealers or major traffickers, or on the number of firearms involved in the transactions investigated.

A humbling comparison can be made between the enforcement resources available to A.T.F. and the size of the problem it is charged with policing. About 5,000,000 new firearms were sold on the civilian market in 1973, and approximately the same number of used firearms changed hands. Audits of firearms transaction records show apparent irregularity in a large enough proportion of these to generate several hundred thousand criminal investigations a year if all transaction forms were audited, and that is not the major source of the illegal interstate movement of firearms.<sup>150</sup> There may be as many as half a million violations of the Gun Control Act of 1968 each year, with most of them at least one step beyond the record system imposed on dealers and first-purchasers. Criminal investigation of transfers outside the record system requires a considerable amount of manpower, invested in proactive police work aimed at detecting victimless crime. Under these conditions the primary determinant of the degree of enforcement will be the resources committed to enforcement. And as the dip in case referrals for 1973 might suggest, manpower allocated to A.T.F. firearms enforcement has remained relatively stable in the past two years.<sup>151</sup>

If limited manpower is one major constraint on achieving the "state aid" purposes of the Act, lack of information on the pattern of illicit traffic in firearms has also proved to be a major obstacle. Prior to 1972 there were no major investigations by the Bureau of where the firearms that were frustrating state and local gun control efforts came from. A series of studies of interstate handgun traffic was begun in 1972 and will be referred to in the discussion of the impact of the law on the interstate gun problem. Information

<sup>150</sup> No precise estimate is possible because the audited forms were not a random sample. The random sample figure would suggest that 2% of all 2.4 million new handgun transactions suggest some apparent irregularity.

<sup>151</sup> The Bureau of Alcohol, Tobacco, and Firearms reports that man-days invested in firearms enforcement increased from 80,000 in fiscal year 1968 to a reported 252,126 in fiscal year 1972. The parallel figure for 1973 was 258,983.

on the number of firearms produced in the United States was not compiled by A.T.F. until 1972, and data on firearms sales in the various states and regions are still not available.

A further limit on the ultimate effectiveness of A.T.F.'s enforcement effort has been the types of firearms traffic left uncontrolled under the Act and the regulations established to govern its enforcement. Detailed records of firearms transfer by dealers are now required, but these records are kept by the dealer and are only accessible to the Bureau during compliance investigations or when agents are alerted to a particular gun or dealer as a result of other information.<sup>152</sup> Whatever value firearms transaction records would have—in providing a picture of retail firearms traffic and in putting the Bureau on notice of special high-risk high-volume sales patterns—was sacrificed to decentralization. And nondealer gun transfers—probably 30 per cent of total gun traffic and a far higher proportion of illegal sales<sup>153</sup>—are not subject to any federal record-keeping requirement.

A final limit on the effectiveness of Bureau efforts is the sheer volume of firearms in civilian hands. Regulation of firearms traffic as a whole differs from efforts to control submachine guns and hand grenades, not in degree but in kind. The number of National Firearms Act weapons in civilian hands in the United States is small, and federal law was explicitly designed to keep ownership low.<sup>154</sup> Civilian firearms ownership exceeds 100,000,000,<sup>155</sup> and any federal efforts at regulation must involve only a small percentage of gun transactions or an enormous regulatory effort. For example, the director of A.T.F. reported an estimated 25,000 dealer-compliance investigations during fiscal 1973;<sup>156</sup> a sample of 100 such investigations conducted by the Chicago regional office showed an average of five firearms transaction forms were traced for criminal record and address verification in the course of each investigation. If that approximates the national average, about 125,000 transactions a year are verified in the course of the Bureau's regulatory enforcement. That is an impressive workload, but still constitutes less than two per cent of the annual retail commerce in guns.

Notwithstanding its limits, efforts to effectuate the Gun Control Act reflect a much more serious commitment of resources and support than resulted from the Federal Firearms Act of 1938, and the 1968 Act is worthy of more attention than it has previously received.

<sup>152</sup> Treas. Reg. § 178.121 (1968). Treas. Reg. § 178.23 (1968) gives internal revenue officers rights of entry and examination.

<sup>153</sup> George D. Newton & Franklin E. Zimring, *supra* note 2, at 13 (Figure 3-1).

<sup>154</sup> See text accompanying note 33 *supra*.

<sup>155</sup> George D. Newton & Franklin E. Zimring, *supra* note 2, at 5. See also Table 5 *infra*.

<sup>156</sup> Appropriations for Fiscal Year 1974, *supra* note 135, at 682.



### B. *The Saga of the "Saturday Night Special"*

As previously discussed, the Gun Control Act prohibited the importation of all military surplus firearms and any other firearms unless the Secretary of the Treasury found them to be generally recognized as "particularly suitable for or readily adapted to sporting purposes."<sup>157</sup> This section discusses the interpretation of that provision, the impact of the law as interpreted on handgun importation, sales, and misuse, and the consequences of the "Saturday Night Special" ban on the federal firearms control debates of the 1970s.

I have previously suggested that the operative provisions of section 925(d) could have been interpreted as giving the Secretary of the Treasury power to end all firearms importation into the United States.<sup>158</sup> That reading, heavily dependent on the fact that the Secretary was not required to issue any import authorization, was never given any serious consideration in discussions of the Act<sup>159</sup> or in the regulations issued under it.<sup>160</sup> The argument against such a reading is strong: why would Congress so obliquely delegate to the Treasury the power to determine at will whether firearms could be imported, and why would Congress establish criteria for importation if it was delegating the power to ignore them? In any event, the Internal Revenue Service read section 925(d)(3) as requiring the Service to permit the importation of all firearms that met the standards established by subsection (3), and the "sporting purposes" test became the border between permissible and impermissible importation.<sup>161</sup>

Construing this provision created no major difficulty in the regulation of shotguns and rifles, for different reasons. The bulk of the foreign-made shotguns imported into the United States are of high quality and reputation. While these weapons were a major competitive challenge to American manufacturers, it would be hard to imagine a "sporting purposes" test that would exclude a large number of them. Rifle imports presented no major interpretation problem under 925(d)(3) because surplus military weapons, constituting the bulk of low-priced rifles during the late 1950s and 1960s, were excluded from the United States whether or not they were particularly suitable for sporting purposes.<sup>162</sup> Rifle imports dropped somewhat after the Act

<sup>157</sup> Gun Control Act of 1968, 18 U.S.C. § 925(d)(3) (1970).

<sup>158</sup> See p. 154, *supra*.

<sup>159</sup> See Federal Firearms Act [II], *supra* note 128, at 69.

<sup>160</sup> U.S. Dep't of the Treasury, Int'l Rev. Ser., Factoring Criteria for Weapons, Form 4590 (11-69) reprinted in Appropriations for Fiscal Year 1974, *supra* note 135, pt. 1, at 671 (1973).

<sup>161</sup> *Ibid.*

<sup>162</sup> Gun Control Act of 1968, 18 U.S.C. § 925(d)(3) (1970).



went into effect, while shotgun imports more than doubled between 1968 and 1973.<sup>163</sup>

The hard questions concerning the "sporting purposes" test related to handguns, because the handgun, whether domestic or imported, is not primarily a sporting weapon. In contrast to rifles and shotguns, handguns are owned more frequently in cities than in rural areas, are rarely used to hunt with, and are viewed by consumers as weapons of self-defense.<sup>164</sup> Handguns are carried by some hunters as a "finishing weapon" for killing wounded animals, and are widely used for informal target practice ("plinking"). But it is unclear whether these uses would or should have been considered sporting purposes, nor is it clear what kind of handguns should be considered generally recognized as particularly suited to shooting at tin cans. The essential problem, then, was that the "sporting purposes" test was something of a *non sequitur* when applied to handguns, because the great majority of them were not, in any event, intended for sporting purposes.

Under these circumstances, interpreting the "sporting purposes" standard was bound to cause problems. One approach would have been to prohibit the importation of any pistols or revolvers. This was apparently within the power of the Treasury but would have produced a storm of partially justified criticism, since Congress had not explicitly singled out handguns for exclusion. A second approach would have been for the Internal Revenue Service to issue regulations requiring importers to establish to its satisfaction that a particular shipment of handguns would be used for shooting-sports activities. Though this interpretation would doubtless have produced controversy, it seems most clearly in line with a congressional "sporting purposes" test: why should such a test govern importation decisions if congressional intent were not to allow the importation of only sporting weapons? Such a regulation could be justified for handguns, as opposed to rifles and shotguns, because long guns were, as a class, generally regarded as sporting weapons, while handguns were not.<sup>165</sup> The effect of this kind of regulation, if the burden of proof rested on the importer in each case, would have been to reduce handgun imports drastically and confine the import market to target pistols for which domestic substitutes were either unavailable or so much more expensive that seeking permission to import the weapons would be worth its considerable trouble. Whether this would have resulted in substantially re-

<sup>163</sup> 1968 rifle imports and shotgun imports are reported in George D. Newton & Franklin E. Zimring, *supra* note 2, at 172-173. 1970 rifle imports totaled 218,979. 1970 shotgun imports totaled 422,100. (1970 figures supplied by Bureau of Alcohol, Tobacco, and Firearms.)

<sup>164</sup> George D. Newton & Franklin E. Zimring, *supra* note 2, at 11, 21, 61.

<sup>165</sup> *Id.* at 61.

ducing total handgun sales or handgun violence is a question to be considered later.

The approach taken by the Internal Revenue Service was to establish a system for grading pistols and revolvers, together with a list of approved guns that could be imported with relatively little red tape. Guns without specified safety accessories, or understated minimum size, were excluded. The import criteria for grading other weapons included gun and barrel length, type of frame construction, and weight.<sup>166</sup> And the Service reserved the right "to preclude importation of any revolver or pistol which achieves an apparent qualifying score but does not adhere to the provisions of section 925(d)(3) of . . . Ch. 44, Title 18, U.S.C."<sup>167</sup>

The impact of these "Factoring Criteria for Weapons" was to exclude very small handguns and those without safety devices, and to create standards of frame construction and handgun weight to qualify for import. The weight requirement would differ with different weapons, because deficiencies in weight can be compensated for by the presence of target equipment, safety features, or other graded items.<sup>168</sup>

There is a ring of arbitrariness about a single "passing score" determining whether or not a handgun is a "Saturday Night Special"—a revolver with a 44-point score would not be approved, whereas one with 46 points became "particularly suited to sporting purposes." But the "Factoring Criteria for Weapons" did give a measure of certainty to the process of approving or disapproving handguns for importation. Perhaps the standards gave a bit too much certainty, in that foreign manufacturers could integrate U.S. specifications into the design of handguns.

The theories behind the various criteria chosen by the Commissioner are not explicitly set out in any public documents. Frame length and barrel length of a handgun are relevant to its concealability, and very short handguns are not likely to be used for formal target shooting. Weapon weight and frame construction may be related to durability. Safety features make it less likely that a handgun will discharge accidentally, particularly when dropped. The caliber of a handgun may be of some relevance to the likelihood of its being used for a sporting purpose (high-caliber handguns receive extra points), yet the majority of handguns used for informal "plinking" are .22 caliber, if only because .22 caliber ammunition is relatively inexpensive.

Taken together, the standards employ criteria that are to some degree relevant measures of handgun quality, whether a handgun is used for self-defense

<sup>166</sup> U.S. Department of the Treasury, Int'l Rev. Ser. Factoring Criteria for Weapons, Form 4590 (11-69). See note 135 *supra*.

<sup>167</sup> *Ibid.*

<sup>168</sup> *Ibid.*

or sporting purposes. But neither the criteria nor the cutoff points (45 for revolvers, 75 for pistols) have become accepted standards for defining the "Saturday Night Special." In 1973, A.T.F. attempted to determine the proportion of guns in a sample of confiscated handguns that could be classified as "Saturday Night Specials." Instead of using the "Factoring Criteria for Weapons" cutoff, the Bureau used three different standards—guns retailing for less than \$50, guns with a barrel length of three inches or less, and guns of .32 caliber or less. "[T]he problem of determining what percentage of the total guns traced fell in the category of 'Saturday Night Specials' was resolved by taking the total number of guns in each of these three categories, adding the totals, and dividing by three to arrive at what was called a 'composite' average."<sup>169</sup>

What is remarkable about the series of events that led to the "Factoring Criteria" and the list of foreign firearms approved for importation is the persistent nondefinition of the key terms in the controlling federal law. We have now traced through the three significant levels of congressional and agency declaration—the statute itself, the regulations issued to implement the statute, and the "factoring criteria for weapons." At no point in this sequence is the phrase "particularly suitable . . . for sporting purposes" or any of its constituent terms explicitly defined. Yet at the end of this process, A.T.F. had created a set of precise criteria to govern the importation of handguns!

A major share of the responsibility for this state of affairs belongs to the draftsmen of section 925(d) and to Congress. The "sporting purposes" test was ill-suited to the task of sorting out foreign handguns, yet handgun imports were the only significant issue to be decided by that standard. While the agency charged with responsibility for administering the Act could have made a wholesale determination that almost all handguns were barred from importation, a clearer congressional mandate for such a controversial step would have been desirable.

The jurisprudence of the entire "Saturday Night Special" issue is also interesting. The attack against cheap imported handguns was powerful but pitifully underinclusive. Handguns retailing for under \$50 are a major public safety problem—but so are those retailing for over \$50. Imported handguns were an important part of the urban arms race of the late 1960s, but so were domestic handguns.<sup>170</sup> To focus on "cheap imports" created the need to find the kind of fault with these guns that would not generalize too quickly. The various complaints lodged against the "Saturday Night Special" were thus somewhat peripheral to the central problems of handgun misuse—

<sup>169</sup> U.S. Dep't of the Treasury Bureau of Alcohol, Tobacco, and Firearms, Project Identification 3 (1973).

<sup>170</sup> George D. Newton & Franklin E. Zimring, *supra* note 2, at 50; see also *id.* at 171-74.



and these distortions are faithfully reflected in the standards governing handgun imports in 1974.

The effect of the import restriction on handgun importation was immediate and dramatic, as shown in Table 3, using data from the Bureau of the Census.

TABLE 3  
HANDGUN IMPORTS BY YEAR, 1965-73

1964	253,000	1969	349,252
1965	346,906	1970	226,516
1966	513,019	1971	345,557
1967	747,013	1972	293,343
1968	1,155,368	1973	309,471

Source: U.S. Bureau of the Census, Foreign Trade Division, FT246—U.S. Imports for Consumption 1964-73.

Handgun imports in 1969, the first year under the Gun Control Act, were less than a third of 1968's record volume of 1,155,000, and importation in later years has never exceeded one third of the 1968 total. It is also significant that the post-1968 totals are far lower than in 1967 and 1966, years when the number of handguns imported was not affected by the deadline imposed by the Gun Control Act. These figures show a linear growth in handgun imports being replaced in 1969 by a new plateau at about one third of the 1968 rate, a further dip in 1970, and a leveling off in later years at around 300,000 units.

The figures in Table 3 are from annual reports from the Bureau of the Census on specific categories of foreign trade. The data are derived from customs records and are the only estimates of imports available for the years prior to 1969. Since December of 1968, however, A.T.F. has been compiling its own figures on firearms importation, derived from forms filed by holders of import licenses. A.T.F. statistics on handgun imports tell a somewhat different story, as shown in Table 4.

The A.T.F. and Census figures are in general agreement for the years 1969-1971, showing a sustained drop in handgun imports. The A.T.F. statistics for these years are always somewhat higher than the Census figures, because the A.T.F. definition of a handgun includes certain handgun parts and marginal weapons that the Census figures exclude. For 1972, however, the A.T.F. and Census imports diverge by 150,000 guns, and the 1973 totals of 300,000 and 900,000 respectively cannot be reconciled.<sup>171</sup> If the A.T.F.

<sup>171</sup> In an effort to reconcile the import totals, 1973 import permits issued by the Southeastern Regional Office of the Bureau of Alcohol, Tobacco and Firearms were analyzed. It was found that the two categories that are counted as handguns by A.T.F. but not by Customs—starter guns and major handgun parts—were not a significant part of the guns imported under permit. With respect to starter guns, the Census Bureau reports a total number of 88,000 imported during 1972. See U.S. Bureau of the Census, Foreign Trade Division, FT 246—U.S. Imports for Consumption 1972 (1973).



**TABLE 4**  
**HANDGUN IMPORTS BY YEAR, 1964-73**

	Bureau of the Census	A.T.F.
1964	253,000	—
1965	346,906	—
1966	513,019	—
1967	747,013	—
1968	1,155,368	—
1969	349,252	358,083 <sup>a</sup>
1970	226,516	279,537
1971	345,557	357,170
1972	293,343	439,883
1973	309,471	900,680

<sup>a</sup> Estimate based on a thirteen-month total of 387,924.

Source: U.S. Dep't of Treasury, Bureau of Alcohol, Tobacco and Firearms, Statistics Division.

figures are closer to the truth, the pattern of handgun imports shows a sustained drop followed by a sharp increase in 1972 and 1973, with the 1973 total approaching the 1968 peak. With no definitive basis for choosing between these sharply different estimates, each of which claims to be based on compilations from individual records of handgun transactions, we will simply have to plead in the alternative whenever handgun import statistics for these years are needed to assess the impact of the Act. One could hope, however, that the two federal agencies in charge of compiling these data might attempt to resolve such a glaring discrepancy.

Unless imported handguns are a distinctive social control problem, the appropriate way to measure the impact of the ban on imports is the number and type of handguns, both domestic and imported, coming to the civilian United States market. In order to acquire these data, it is necessary to study patterns of domestic handgun production. One would predict that a partial ban on imports would lead domestic manufacturers to produce more weapons. This prediction is supported by the statistics compiled in Table 5.

Table 6 shows the estimated total number of handguns introduced into the civilian market during 1963 through 1973; the disagreement on imports makes it necessary to present both "low" (using Census statistics) and "high" (using A.T.F. statistics) estimates for 1969-1973.

Annual handgun production and imports in the first three years after passage of the Act were off more than 25 per cent from the 1968 peak-year total—and approximately the same as in 1967. After that the "high" and "low" total estimates tell different stories. If the "low" estimate is accurate, an expansion in domestic production in 1972 and 1973 pushed the total number of handguns to nearly the two million mark, a unit volume 400,000 below the 1968 total. If the "high" estimate is accurate, increases in both

**TABLE 5**  
**ESTIMATED DOMESTIC PRODUCTION OF HANDGUNS FOR CIVILIAN USE BY YEAR,**  
**1964-73**

1964	491,073 <sup>a</sup>	1969	1,367,300 <sup>c</sup>
1965	666,394 <sup>a</sup>	1970	1,393,690 <sup>d</sup>
1966	699,798 <sup>a</sup>	1971	1,420,692 <sup>e</sup>
1967	926,404 <sup>a</sup>	1972	1,667,000 <sup>f</sup>
1968	1,259,356 <sup>b</sup>	1973	1,609,000 <sup>g</sup>

<sup>a</sup> Estimate based on production reported by manufacturers to the National Commission on the Causes and Prevention of Violence. See George D. Newton & Franklin E. Zimring, *Firearms and Violence in American Life* 172 (1963).

<sup>b</sup> Estimate projected from production for the first six months of 1968. *Ibid.*

<sup>c</sup> Estimate based on handgun excise tax collections of \$6,183,000 for fiscal 1969, and \$6,697,000 for fiscal 1970, and ratios of \$4.34 excise tax collection per handgun in fiscal 1971. The mean ratio of excise tax collection to guns (\$4.71) was divided into the mean of excise tax collections for fiscal 1969 and fiscal 1970 (\$6,440,000) to derive an estimated calendar-year production of 1,367,304 handguns. Fiscal-year estimates of handgun production for 1968 and 1971 were derived from the mean of production for the two calendar years that were pertinent. Our estimate of production deviated from that of the Treasury (which simply divided total production for 1967, 1968, 1970 and 1971 by four) by a total of 112,000 handguns, or nine per cent.

<sup>d</sup> Estimate based on A.T.F. survey of domestic manufacturers.

<sup>e</sup> Estimate based on A.T.F. survey of "confidential industry sources."

<sup>f</sup> Estimate based on A.T.F. survey for first six months, quarterly reports to A.T.F. for July-December. Handgun exports deleted.

<sup>g</sup> Estimate based on quarterly report by manufacturers to A.T.F.

production and imports pushed unit volume above two million in 1972 and above the 1968 peak in 1973.

While the peak rate of 1968 may not be an ideal candidate for a base year, the figures in Table 6 suggest that the new import restrictions did have an immediate and substantial impact on the number of handguns that came into the civilian market; as might have been expected, however, domestic production expanded after the Act, and the increase in domestic capacity was equal by 1973 to about half the 1,100,000 handguns that were imported in 1968.

**TABLE 6**  
**HANDGUN PRODUCTION AND IMPORTS BY YEAR, U.S., 1964-73**  
**(in thousands)**

	Low Estimate	High Estimate
1964	744	—
1965	1002	—
1966	1213	—
1967	1673	—
1968	2414	—
1969	1716	1725
1970	1619	1672
1971	1765	1777
1972	1960	2100
1973	1918	2510

In part, the expanded domestic output reflected the production of domestic "Saturday Night Specials." The importation of handgun parts for United States assembly grew from a unit volume of 18,000 in 1968 to more than a million in 1972.<sup>172</sup> The average value of a United States handgun (as indicated by the ratio of production to excise tax collections) fell by about 10 per cent between 1969 and 1972, during a period of general inflation.<sup>173</sup> Yet the impact of the importation restrictions was substantial in the years immediately following the Act and could have been even more substantial if a tighter definition of "sporting purposes" and restrictions on the importation of handgun parts had materialized.

There are two ways of measuring the impact of restricted supplies of handguns on the rate of handgun violence. The first is to compare the rate of civilian handgun acquisition with rates of handgun violence; the second is to trend the proportion of violent activities attributable to handguns over time. The first method is the most frequently used, but fails to control for the many variables other than gun availability that may influence the rate at which crimes are committed with all weapons, including guns. The second method seeks to control for other factors influencing crime rates by focusing on relative rather than absolute measures of gun use. Both approaches show the same general pattern for the period 1966 through 1973—explosive growth in the rate of handgun usage in the period 1966-1969 followed by three years in which handgun violence continued to grow, but at a more modest rate.

Figure 1 shows trends in handgun homicide and nonfatal assault by firearms in the 57 largest United States cities. The assault figures, which are not broken down by type of firearm, should be composed of about 80 per cent handgun attacks, since 79 per cent of all firearms homicides during the period were committed with handguns in these cities.

Handgun homicides and gun assaults increase consistently throughout the period, but the rate of increase slows considerably after 1969. Assuming about a one-year lead time for guns produced or imported to reach city streets, the moderating rate of increase coincides with the reduction in new handguns entering the civilian market.

Figure 2 shows handgun homicides and firearm assaults as a percentage of all homicides and assaults for the same cities.

Figure 2 reveals substantial increases in the percentage of homicides attributed to handguns and assaults attributed to firearms; these moderated beginning in 1969, but continued to trend upward. If, as seems likely, these percentages are related to the rate at which handguns enter the civilian

<sup>172</sup> Robert Sherrill, *supra* note 6, at 304. The dollar volume of imported handgun parts in 1972 totaled \$3,500,000.

<sup>173</sup> I.R.S., Annual Report of the Comm'er, 1969, tab. 3, at 107; *id.*, 1972, tab. 3, at 111. See Table 5 *infra* for handgun production estimates.

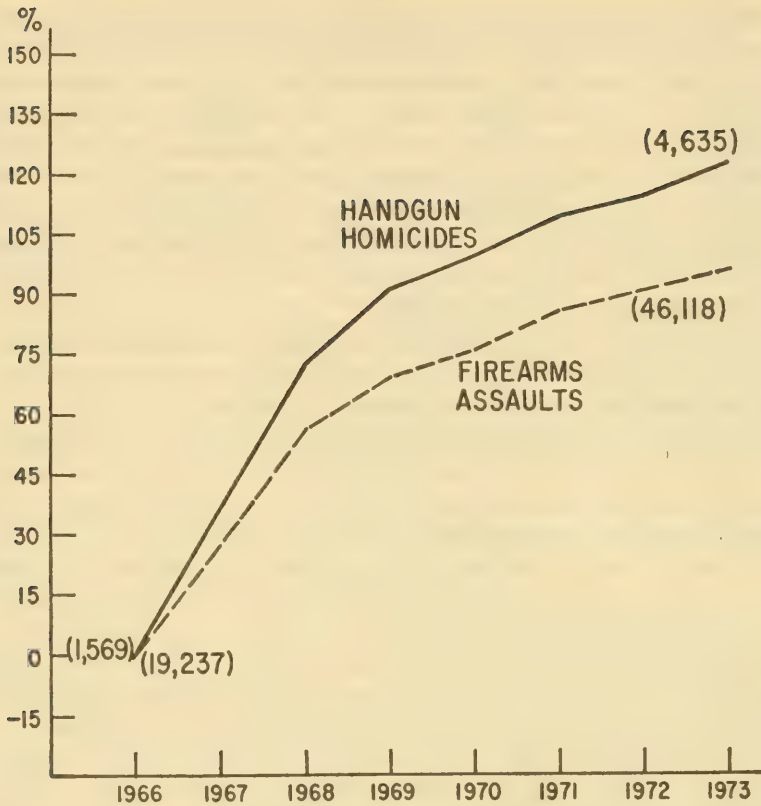


FIGURE 1

TRENDS IN HANDGUN HOMICIDES AND FIREARMS ASSAULTS, 57 CITIES WITH POPULATION 250,000 OR MORE, BY YEAR 1966-1973

market, both handgun attacks and the percentage of all attacks attributable to handguns should show further upward movement in 1974, particularly if the A.T.F. estimate of imports (the high estimate in Table 6) is the more accurate.

In part because of the import restrictions and their aftermath, the "Saturday Night Special" issue became the focal point for firearms-control debate in the early 1970s. Using the uneasy conceptual framework of section 925(d)(3) as a starting point, proposals to extend production controls to domestic handguns proceeded in three different directions. One set of proposals, never widely supported in Congress, used the artificiality of the distinction between "Saturday Night Specials" and other handguns as a platform for urging prohibition of handgun production and sale for the civilian market.<sup>174</sup> A second approach

<sup>174</sup> H.R. 3980, 92d Cong., 1st Sess. (1971).



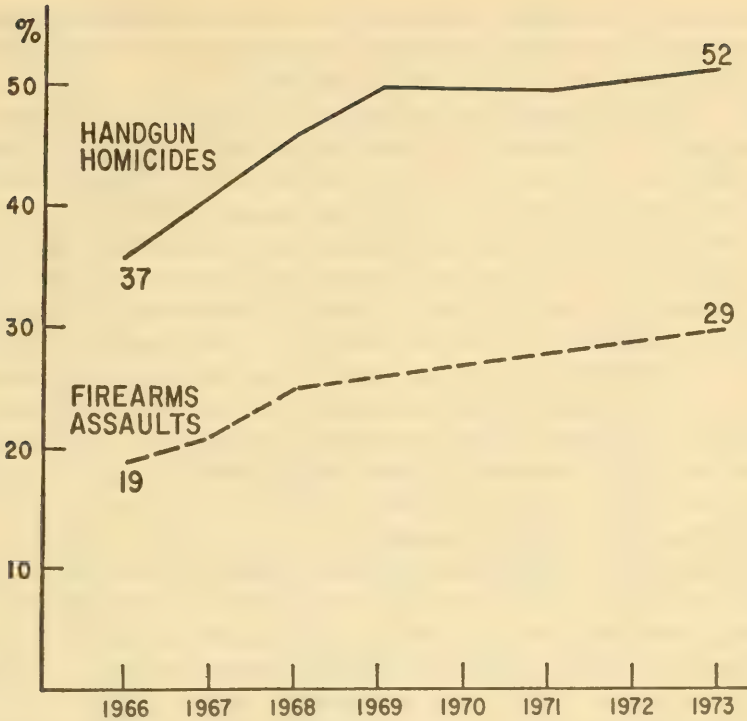


FIGURE 2

HANDGUN HOMICIDE AS A PERCENTAGE OF TOTAL HOMICIDE, AND FIREARM ASSAULT AS A PERCENTAGE OF TOTAL ASSAULT, BY YEAR IN 57 U.S. CITIES OVER 250,000

was Senator Bayh's proposal to extend the existing A.T.F. minimum standards of length and quality to domestically produced handguns; his bill, S. 2507, would have prevented the sale of many handguns produced by established United States firms that were smaller than the minimum standards in the bill.<sup>175</sup> The Bayh bill passed the Senate in 1972 but never came to the floor of the House.<sup>176</sup>

A third approach, which enjoyed considerable support in the Congress and the Administration, sought to amend the "Factoring Criteria for Weapons" into a test of handgun reliability and to extend this type of regulation to both imported and domestic handguns. Federally funded tests of handguns were performed by the H. B. White Laboratories in 1972, and there was talk of an Administration proposal to amend section 925(d), but no such proposal

<sup>175</sup> S. 2507, 92d Cong., 1st Sess. (1971).

<sup>176</sup> 118 Cong. Rec. 27502 (1972).

<sup>177</sup> Gun Control Legislation, hearings before Subcomm. No. 5 of the H. Comm. on the Judiciary, 92d Cong., 2d Sess., serial no. 33, at 239-40 (1972).

was introduced.<sup>177</sup> A number of proposals have been introduced in Congress and state legislatures using criteria such as melting point or reliability test survival as criteria for minimum handgun quality.<sup>178</sup>

Most of the descendants of section 925(d) suffer from the same aroma of arbitrariness that surrounded the debate in 1968 and the standards promulgated under the 1968 act. The Bayh bill used the previously discussed "factoring criteria" developed to test foreign handguns.<sup>179</sup> The bill seems to have been inspired by reports of domestically produced "Saturday Night Specials," and the criteria and cutoff points were borrowed from the A.T.F. import standards to avoid the tricky problem of establishing and defending independent standards. The various proposals to make handguns "reliable" oddly did not include shotguns and rifles, as one would assume a genuine consumer-safety proposal for firearms should. The special problems associated with handgun possession and use have achieved a great deal of public attention, but the second generation "Saturday Night Special" bills do not address what appears to be the central problem: the misuse of handguns, rather than of any recognizable subclass of handguns.

One lesson of the 1968 import restrictions is that a production standard need not be conceptually acceptable to have impact on the United States handgun market. Any standards that disrupt handgun production can have short-run effects, and any standards that raise prices significantly or restrict production capacity can have some long-range impact on handgun sales and use. The problem with this type of partial solution is not merely that it has "loopholes" through which compensating increases in production can flow: it also lacks coherent principle. The mechanism used by section 925(d)(3)—shutting off the flow of a particular type of weapon—might work with a relatively high degree of effectiveness if only we could determine what it is that we really want to prohibit.

The fluctuation in handgun violence over the past eight years also suggests, for good or ill, that the rate at which new handguns enter the market has a special impact on handgun violence. The 2.4 million new handguns entering the market in 1968 were a less than 15 per cent addition to the total domestic supply, yet were associated with a far larger increase in handgun homicides.<sup>180</sup> In part this "leverage" may simply reflect the fact that the same forces that influence crime rates increase the demand for handguns, in which case a legislated reduction in handgun production and imports will not necessarily result in a disproportionate reduction in handgun violence.

<sup>178</sup> See, e.g., the Illinois proposal, HB-1058, 78th General Assembly (1973).

<sup>179</sup> S. 2507, 92d Cong., 1st Sess. (1971).

<sup>180</sup> See Table 6 *supra*; Figure 1 *supra*; George D. Newton & Franklin E. Zimring, *supra* note 2, at 172-73.

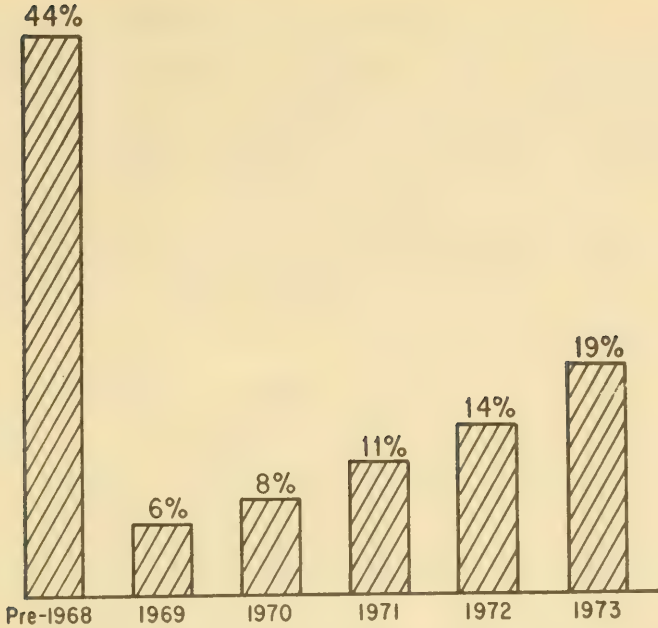


FIGURE 3  
HANDGUNS CONFISCATED IN NEW YORK CITY DURING DECEMBER 1973 BY YEAR  
OF ORIGINAL SALE

It is also true, however, that a large percentage of the handguns used in big-city crime are new or near-new, as seen in Figure 3.

As Figure 3 shows, 19 per cent of the handguns confiscated by New York City police in December 1973 and later traced by A.T.F. had been shipped to dealers that same year. The next highest total was the 14 per cent of all guns produced in 1972, and the pattern shows a steady decline in percentage for prior years not accounted for by the fluctuations in handgun production or imports.<sup>181</sup> If newer handguns are more "at risk" than older handguns, the number of such guns shipped in any year would be expected to have a more-than-proportional impact, up or down, on trends in gun violence.

To the extent that restricting imports reduced the rate of handgun acquisition, it may share some of the credit for moderating the upward trend in handgun violence that preceded the Gun Control Act of 1968. But there is not much credit to pass around, because the volume of handguns coming to the civilian market has increased almost to, or beyond, the 1968 peak, and the same theory that would attribute some prevention of handgun violence to the 1968 restrictions would predict further increases in handgun violence.

<sup>181</sup> See Table 6 *supra*.

### C. *State Aid and Migratory Handguns*

A major aim of the Gun Control Act was to assist state and local gun control efforts by reducing the flow of guns from loose-control to tight-control jurisdictions. Prior to the Act, two northeastern states and a number of municipalities had attempted to restrict handgun possession to only those of their citizens who could demonstrate a special need to own one.<sup>182</sup> Such laws were intended to reduce handgun ownership to a tiny fraction of the national average of 40 handguns per 100 households. As it turned out, though, municipal efforts to restrict handgun possession were vulnerable to the flow of handguns from within the state and from other states, and state efforts were vulnerable to interstate traffic.<sup>183</sup>

Whether state and local restrictive handgun licensing reduced rates of criminal violence was widely debated. States and cities with such licensing systems experienced lower rates of criminal homicide than some other jurisdictions, and guns were used in a lower percentage of all violent crime.<sup>184</sup> But the two major laboratories of restrictive handgun licensing, New York and Massachusetts, were located in regions with traditionally low rates of handgun ownership and were demographically different from the areas to which they were compared by advocates of handgun restrictions.<sup>185</sup>

It was not contested that a major problem in administering any gun licensing system was the interstate "leakage" of guns. In the mid-1960s it was estimated that 87 per cent of all firearms used in Massachusetts crime had been purchased first in other states.<sup>186</sup> Two thirds of a sample of handguns confiscated in New York City had come from other states, and surveys in other cities with licensing systems told roughly the same story.<sup>187</sup>

This part of the article addresses the impact of the Gun Control Act on the interstate flow of handguns. Data are presented on handgun crime in New York and Boston, two cities in which a reduction of interstate handgun traffic should result in lower rates of handgun use. A sample of handguns confiscated in New York City is then analyzed to determine where handguns are coming from after the Act, and, to the extent possible, how they are coming. A separate analysis is presented of trends in gun and nongun crime in Washington, D.C., a restrictive licensing jurisdiction where special enforcement efforts were initiated by A.T.F. in 1970.

<sup>182</sup> N.Y. Penal Law § 400.00(2) (McKinney 1973); Mass. Ann. Laws ch. 140, § 131 (1972).

<sup>183</sup> George D. Newton & Franklin E. Zimring, *supra* note 2, at 91.

<sup>184</sup> U.S. Dep't of Justice, Firearms Facts (unpublished report 1968). See George D. Newton & Franklin E. Zimring, *supra* note 2, at 123.

<sup>185</sup> *Id.* at 123, 181.

<sup>186</sup> *Id.* at 91.

<sup>187</sup> *Ibid.* See also *id.* at 49-50.



1. *Measuring Interstate Gun Traffic: New York and Boston.* If the Gun Control Act and its enforcement has led to a reduction of interstate firearms traffic, this reduction should be evident in New York City and Boston, the principal cities in the two most restrictive handgun licensing states in the United States, because out-of-state handguns are a higher proportion of total handguns in these cities than in other metropolitan areas.

One index of the relative number of handguns in circulation is the number of violent crimes committed with handguns. Figure 4 shows the number of handgun homicides reported by the police in New York and Boston and handgun homicide trends for the 57-city sample analyzed in Figure 1. Figure 5 reports parallel data for firearms assaults—the best available measure of trends in handgun assaults.

The pattern in New York is clear: handgun homicides and firearm assaults grew steadily through the period 1966-1972. In the period 1969-1972 both homicide by handgun (up to 87 per cent) and firearm assaults (up to 70 per cent) increased three times as much as the 57-city averages (28 per cent for handgun homicide and 24 per cent for firearm assaults). Even these inflated growth rates are somewhat smaller than increases experienced during 1966-1969, so it is possible that some reduction in interstate handgun traffic is concealed in the compound growth of handgun violence in New York City.

The statistics from Boston show a less steady pattern, in part because the number of crimes reported there are only 5-10 per cent of the New York City totals. During 1969-1971, handgun homicides and firearm assaults increased more than the 57-city average. There was a dip in 1972, followed by a large increase in 1973.

One needs a basis for comparison to determine whether the New York and Boston data permit an inference that the Gun Control Act is reducing interstate handgun traffic. One natural point of comparison is the pattern of handgun violence in each city before the Act. By this measure, both cities show increases in handgun violence, with a rate of increase almost as great in the years after the Act as in the years before. Another basis of comparison, used in Figures 4 and 5, is the rate at which handgun violence was growing in other United States cities. By this index, both cities show increases more pronounced than the national urban pattern during 1969-1973. The pattern for all other United States cities may not, however, be the appropriate basis for comparison, inasmuch as both Boston and New York have traditionally had lower rates of handgun violence than other urban areas, and the very different baselines make trend comparisons misleading.

Another method of attempting to compare New York and Boston patterns would be to find cities similar to them in respects other than firearm policy. The only faintly reasonable match for New York City is Philadelphia, which has a municipal handgun policy close to New York's but a more permissive state law. And there is no adequate comparison city for Boston.

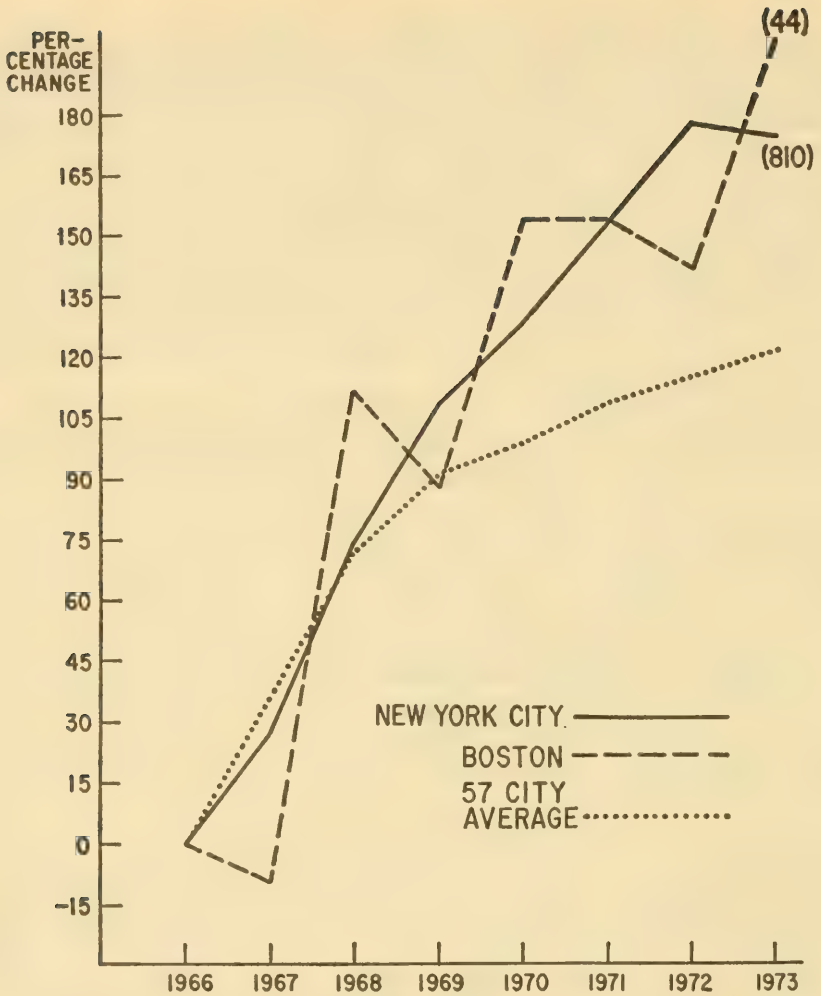


FIGURE 4  
TRENDS IN HANDGUN HOMICIDES BY YEAR, NEW YORK CITY, BOSTON, AND  
57-CITY AVERAGE

The New York-Philadelphia comparison is set out in Figures 6 and 7.

Between 1966 and 1969, New York experienced a larger increase in handgun homicide than Philadelphia (151 per cent versus 79 per cent) and a smaller relative increase in firearm assault (76 per cent versus 102 per cent). Between 1969 and 1972, the New York and Philadelphia patterns of increase are quite similar: handgun homicide increased 87 per cent in New York, compared to 81 per cent in Philadelphia; firearm assault increased 70 per cent in New York, compared to 80 per cent in Philadelphia. The similar trends suggest that the northeastern cities with traditionally lower rates of

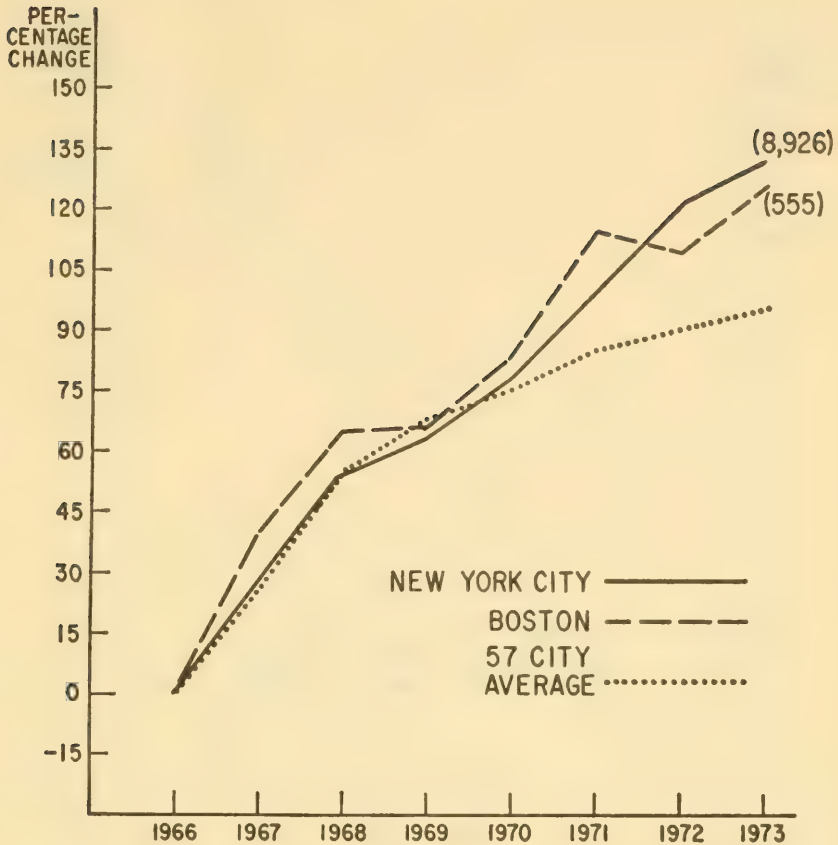


FIGURE 5  
TRENDS IN FIREARM ASSAULTS BY YEAR, NEW YORK CITY, BOSTON, AND  
57-CITY AVERAGE

handgun ownership and use were more vulnerable to large percentage jumps in gun violence during the past few years. The similar post-Act patterns in New York and Philadelphia cannot be read as evidence that interstate handgun traffic (more important in New York violence)<sup>188</sup> varied more significantly than other gun traffic, unless one supposes that the higher pre-Act increases in New York City handgun homicide indicate that the New York post-Act totals would have been higher still in the absence of legislation.

A further way to control for factors other than handgun supply that condition rates of violence is to compare trends in gun versus nongun crime in the cities being studied. Factors other than gun supply are assumed to affect both types of crime in a similar manner. Increased or decreased handgun

<sup>188</sup> See Figures 6 and 7 *infra*.

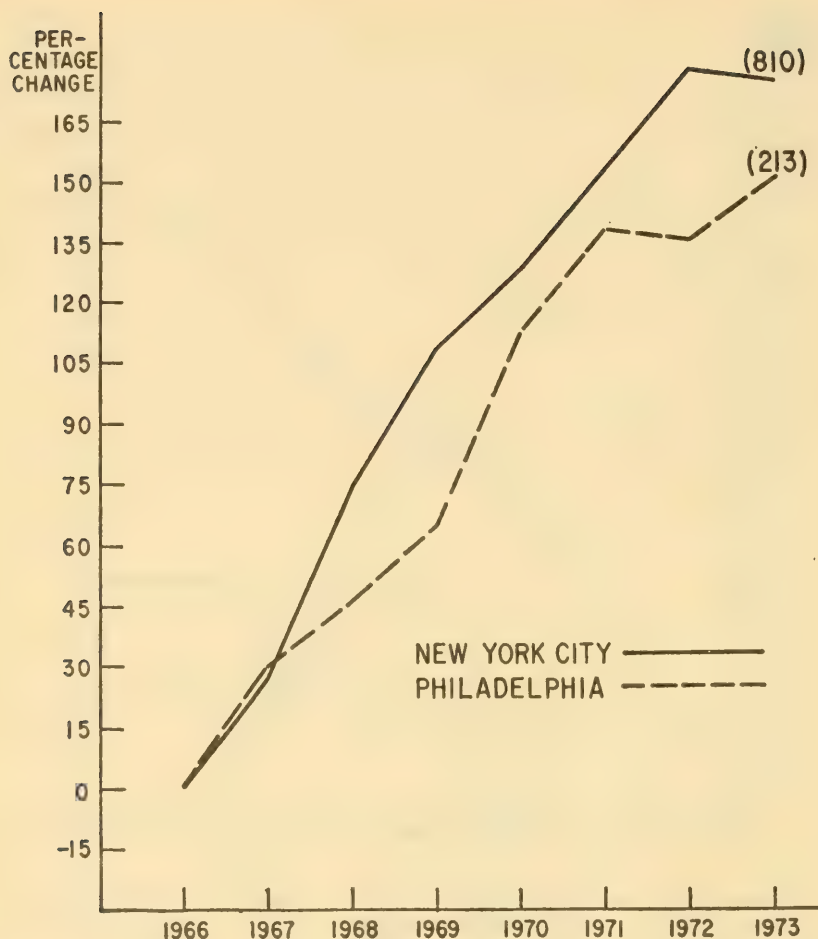


FIGURE 6  
TRENDS IN HANDGUN HOMICIDES BY YEAR, NEW YORK CITY AND PHILADELPHIA

traffic is assumed to influence gun crime only. The percentage of crimes involving guns is a shorthand expression of trends in gun crime controlled for variations in nongun crime.

Figures 8 and 9 trend the use of handguns in homicide (Figure 8) and assault (Figure 9) for New York, Boston, and Philadelphia.

All of the individual cities in Figures 8 and 9 begin with a smaller share of homicides and assaults committed with handguns than the national urban average. Both the rate of handgun violence and the proportion of violence attributable to handguns increased more dramatically in all three cities than the national urban average. And finally while the rate of increase in the per-



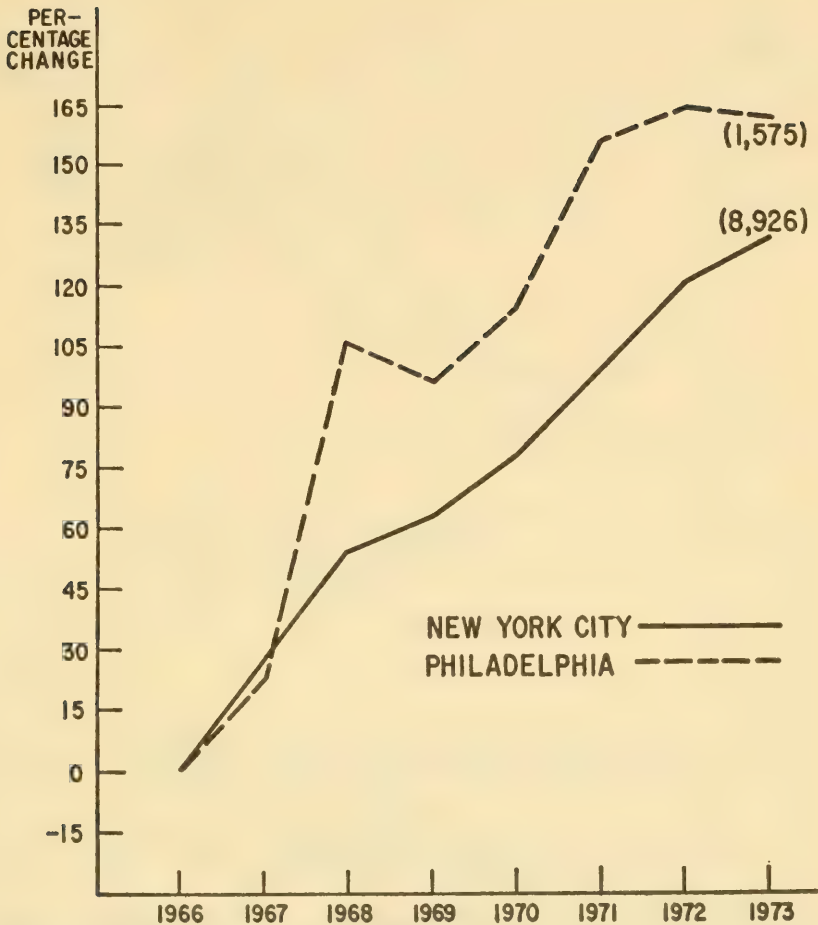


FIGURE 7  
TRENDS IN FIREARMS ASSAULTS, BY YEAR, NEW YORK CITY AND PHILADELPHIA

centage of homicides committed by handguns slows a bit in New York, the data do not support an inference that the upward trend in handgun use stabilized after the Act.

If the "new guns" hypothesis advanced earlier<sup>189</sup>—that the rate at which handguns are introduced into an area is disproportionately reflected in rates of handgun violence—is correct, the data suggest that the Gun Control Act of 1968 did not result in a palpable disruption of interstate handgun traffic.

An A.T.F. analysis of handguns confiscated by the New York City police provides support for this conclusion, as well as a partial explanation of why

<sup>189</sup> See note 175 *supra*; see also text accompanying notes 180 and 181 *supra*.

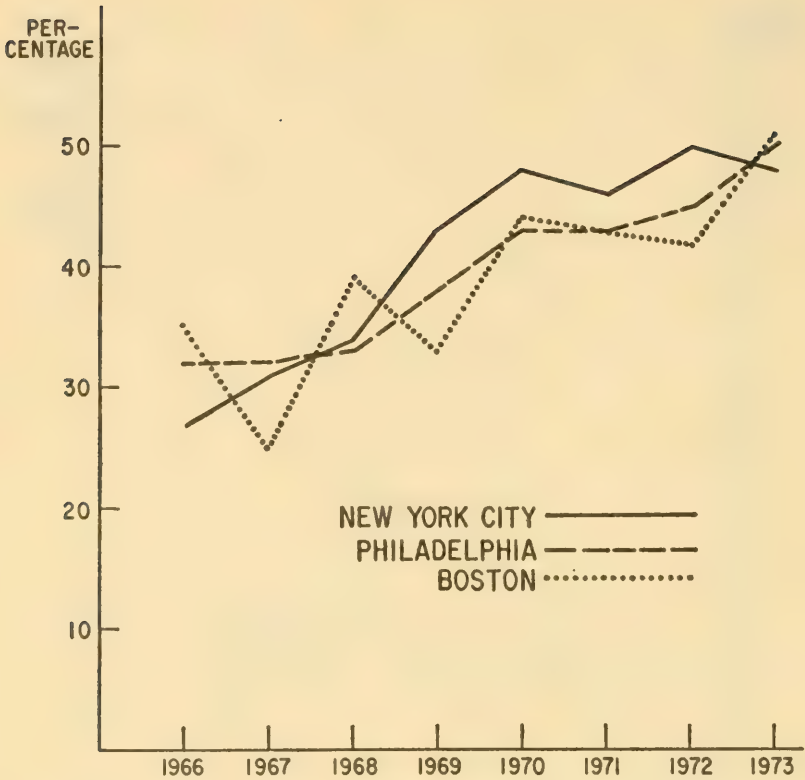


FIGURE 8  
HANDGUN HOMICIDE AS A PERCENTAGE OF TOTAL HOMICIDE BY YEAR, NEW YORK CITY,  
PHILADELPHIA, AND BOSTON

the Act itself had no major depressant impact on interstate handgun migration. In 1973 A.T.F. traced a sample of handguns used in crime in Atlanta, New York, Detroit, and New Orleans. Table 7 shows where the handguns confiscated in New York were originally sold by dealers.

TABLE 7  
PERCENTAGE DISTRIBUTION OF NEW YORK HANDGUNS  
BY STATE OF ORIGINAL SALE

South Carolina	24%
Florida	13
Georgia	11
Virginia	8
New York	5
All Others	39
	<u>100%</u> (2048)

Source: Bureau of Alcohol, Tobacco and Firearms, Project I (1974), at 8.

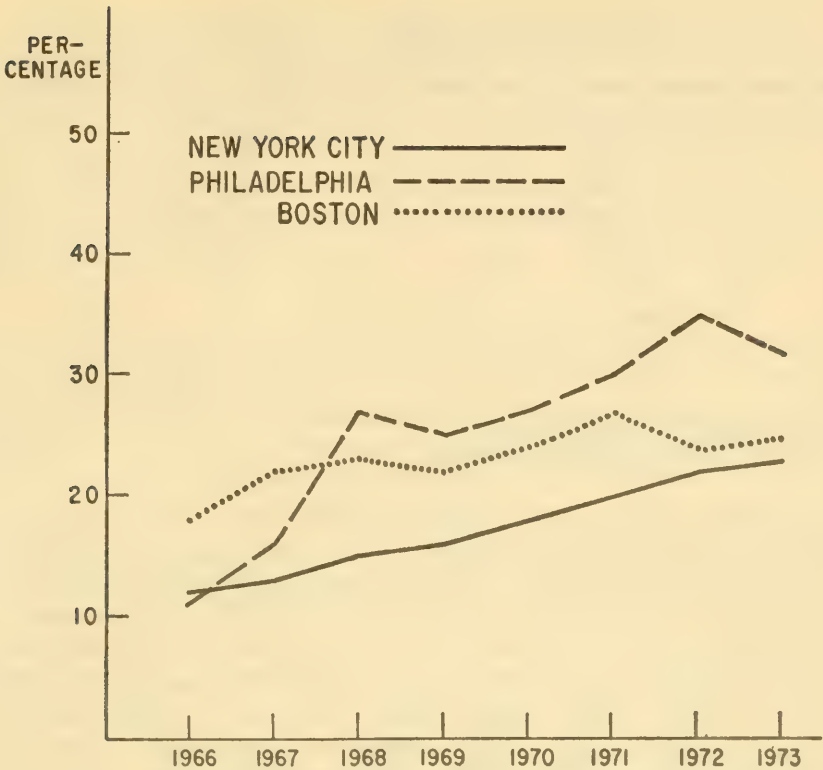


FIGURE 9  
FIREARM ASSAULT AS A PERCENTAGE OF TOTAL ASSAULT, NEW YORK CITY,  
PHILADELPHIA, AND BOSTON

Only five per cent of the handguns traced to retail transactions were originally sold in the State of New York. Over half of all the handguns traced came from dealers in four southeastern states with high handgun populations and few controls on handgun sales. Thirty-nine per cent of the guns came from the other 45 states. The concentration of handgun traffic in a few noncontiguous states and the fact that most handguns are sold at retail in these states suggest that traffic in handguns is organized and that retail dealers are, with or without their knowledge, the prime source of supply.

Table 8 shows the distribution of a sample of New York City handguns by year of original retail sale.

More than half of the guns traced were sold at retail in the five years after the effective date of the Gun Control Act.

The A.T.F. studies have not yet traced guns in other restrictive licensing cities or attempted to show how handguns migrate from southeastern dealers

**TABLE 8**  
**HANDGUNS CONFISCATED IN NEW YORK CITY DURING DECEMBER**  
**OF 1973 BY YEAR OF ORIGINAL SALE**

Pre-1945	14%
1946-60	8
1961-65	7
1966-68	15
<b>Total Pre-Act</b> .....	<b>44%</b>
1969	6
1970	8
1971	11
1972	14
1973	19
<b>Total Post-Act</b> .....	<b>56<sup>a</sup></b>
	<b>100% (1336)</b>

<sup>a</sup> Year totals add to 58% because of rounding.

Source: Bureau of Alcohol, Tobacco and Firearms.

to northeastern city streets in typical cases. One series of A.T.F. criminal investigations involving South Carolina dealers suggested that large-scale dealer transfers—involving more than 1000 handguns during the period of investigation—are an important source of New York City street weapons.<sup>190</sup> In almost all of these large-scale transactions, the federally licensed dealer is a culpable party. In most of the large transactions the handguns were sold to South Carolina or North Carolina residents and apparently shipped in bulk for street sales in northern cities.<sup>191</sup> Smaller-scale transactions—from 10 to 100 handguns—involve New York City residents coming south to purchase handguns for a return trip, and southerners buying guns for personal transport north, by means as mundane as Greyhound bus.<sup>192</sup>

If the pattern reflected in these selected cases holds true for most New York City handguns, the major mechanism for interstate transportation of handguns is the large transaction, requiring dealer participation, financing, and a distribution network in urban markets. There is danger, however, in drawing this inference from so small a sample of cases subjected to criminal investigation. A.T.F. criminal enforcement efforts are, rightly, concentrated on high-volume cases. With very scarce resources and a huge gun commerce to investigate, the sample of cases dealt with could be profoundly biased, and a large number of smaller transactions could account for a majority of interstate handgun traffic. The only way to determine the nature of interstate traffic is the detailed tracing of representative samples of urban handguns.

<sup>190</sup> Case studies prepared by U.S. Dep't of Treasury, Bureau of Alcohol, Tobacco, and Firearms, Criminal Enforcement Division (unpublished).

<sup>191</sup> *Ibid.*

<sup>192</sup> *Ibid.*



Yet the data already presented on gun crime and gun traffic do permit a preliminary interpretation of the impact of the Act on interstate handgun traffic. The rate of handgun crime and the proportion of attacks involving handguns have continued to increase in tight-control cities without significant interruption. The handguns are relatively new and come from a cluster of loose-control states. It appears that handguns are coming from the same places by the same means as before the Act. Otherwise one would expect to see a dip, followed by a recovery, in the rate at which handguns entered urban areas.

In this connection it is important to recall that the Gun Control Act requires records covering only the transfer from dealer to first customer. While it can be argued that any customer who buys thirty handguns is presumably himself a dealer, federal law does not require the dealer to notify A.T.F. of this type of transaction. If the multiple handgun buyer uses his own name, he is in jeopardy if an audit of dealer records happens to focus attention on his purchase; if the customer uses an intermediary who cannot identify him, or gives false identification, the trail of federal records immediately grows cold. The interstate transportation of guns for resale in violation of local law is a crime under the 1968 Act, as it was under the 1938 Act. But finding the offender requires a heavy investment of manpower—to audit firearm transaction records and to discover and arrest illegal sellers, principally through undercover work.

As previously noted, the manpower available for enforcing the Act has always been modest, and it is not possible to determine the proportion of A.T.F. effort devoted to suppressing interstate handgun traffic. There are thus at least two plausible explanations for the apparent failure of the Act to significantly diminish handgun migration: lack of enforcement effort and the inherent difficulty of erecting barriers between states with unlimited handgun access and those that seek to restrict handgun availability. To the extent that further manpower can produce some restraint on the interstate traffic in handguns, the state-aid approach of the Gun Control Act is not inherently unsound; to the extent that loose-control states and federally financed highways make state efforts at gun control depend on the control efforts of other states, the 1968 Act can never be expected to achieve its purpose.

2. *Operation D.C.* One method of testing the relative impact of enforcement effort is to invest a larger-than-usual amount of resources in a single jurisdiction and to determine the consequences of this investment on rates of handgun crime. One such experiment has been conducted by A.T.F. in a city that attempts restrictive handgun licensing and has suffered from the migration of handguns from other states. Called "Operation Disarm the Criminal," this experiment was conducted in the District of Columbia during the first six months of 1970. The District is an admirable candidate for test-

ing efforts to restrict interstate handgun flow because it is a tight-handgun-control jurisdiction, bordering on two states with more lenient handgun policies. In January 1970 the A.T.F. enforcement staff in the District was increased from about seven special agents to between 35 and 50 special agents.<sup>193</sup> This abnormally high manpower allocation was maintained for only six months and fell back to about 20 when the Internal Revenue Service declined to provide funds for a one-year extension of the project. The enforcement effort, at a ratio of one agent to about 2000 population, was about ten times greater than A.T.F. manpower in other major cities.<sup>194</sup>

The special agents assigned to Operation D.C. contacted dealers in the District and proximate areas in Maryland and Virginia that were the major source of handgun supply to Washington. But the principal occupation of these agents was "street work"—undercover investigations, efforts to purchase guns from illegal sellers, and attempts to perfect federal gun law charges against persons whom the local police nominated as being particularly troublesome.

Any attempt to measure the consequences of this effort runs into a number of obstacles. Operation D.C. was identified as a candidate for study long after its conclusion, and the historical records are incomplete. The experiment lasted only six months, which means that any impact on handgun migration attributable to the effort would probably be short-lived. And because the best measures of trends in gun migration are crime statistics, short-term changes in the flow of handguns might not result in discernible differences. Further, this was one of many simultaneous crime-control efforts occurring in the District, and care must be taken to avoid crediting the operation with results that justly should be attributed to other variables. Also, the rate of handgun violence had increased rapidly prior to 1970, and there is danger that regression from abnormally high prior levels of handgun violence might be misread as evidence of enforcement impact.

There are a number of ways in which the special enforcement efforts of Operation D.C. might have reduced the migration of handguns into the District of Columbia and the supply of such weapons available in the District. First, enforcement activities result in the confiscation of weapons, which are thereafter unavailable for sale or criminal use. Project records indicate that just over 575 weapons were confiscated or purchased during the six months the operation was near full strength, an average of about 30 guns per agent

<sup>193</sup> Memorandum from Charles R. Peterson, Assistant Regional Commissioner, Bureau of Alcohol, Tobacco and Firearms, Mid-Atlantic Regional Office re: Operation Disarm the Criminal, at 1 (August 6, 1970).

<sup>194</sup> Compare the Peterson memorandum, *id.* at 1, with Stephen D. Brill, *How Guns Get to Town: Tracing the Southern Connection*, New York [Magazine], April 8, 1974, at 42 (reporting 63 agents spending about half of their time on firearms enforcement in New York City, with ten times the population of Washington, D.C.).

man-year, and a total too small to generate hope that this process alone had a measurable impact on rate of gun violence. However, the operation also involved efforts to persuade gun dealers in nearby out-of-state counties to monitor their customers more carefully.<sup>195</sup> While data on handgun sales by these dealers are not available, it is possible that the influx of weapons into the District was substantially reduced. The enforcement effort might also have disrupted the sale of weapons within the District by deterring or apprehending illegal firearms sellers. The project reported a total of 159 criminal cases initiated but did not estimate how many of the subjects apprehended were involved in large-scale commerce in weapons.<sup>196</sup>

The most straightforward method of testing the manifold effects of special firearms enforcement efforts is to examine trends in gun crime within the District, on the assumption that a substantial reduction in the number of handguns entering the District would result in a lower number of gun crimes than would otherwise be expected. Figure 10 shows trends in handgun and all other homicide in the District of Columbia by year for the period 1966-1973.



FIGURE 10  
GUN AND NONGUN HOMICIDES BY YEAR, WASHINGTON, D.C., 1966-1971

<sup>195</sup> Charles R. Peterson, *supra* note 190, at 3.

<sup>196</sup> *Id.* at 2.

As Figure 10 shows, both gun and nongun homicide declined in 1970, but the rate of gun killings did not decline disproportionately. With the cooperation of the Washington D.C. police, we obtained a monthly breakdown of gun and nongun homicides from 1966 through December 1971.<sup>197</sup> These supplementary data were acquired because the intensive enforcement was of short duration, and monthly data would allow the use of interrupted time-series analysis. Figure 11 shows the monthly patterns of gun and nongun homicide.

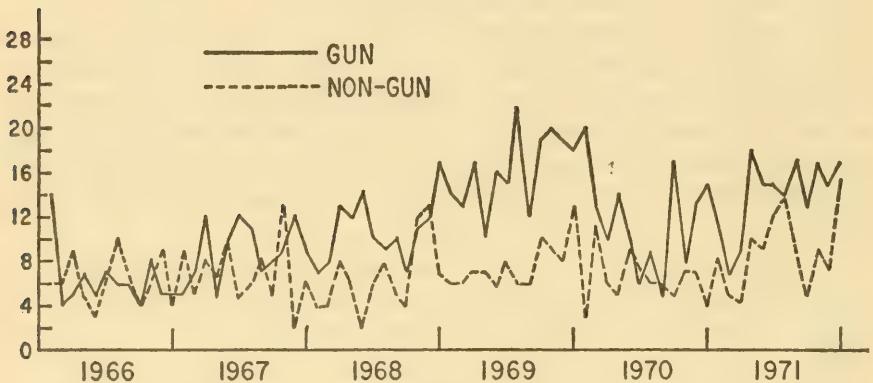


FIGURE 11  
GUN AND NONGUN HOMICIDE BY MONTH, WASHINGTON, D.C., 1966-1971

What appears visually is a drop in gun homicides in the middle months of 1970 that is not present in the nongun pattern. The interrupted time-series analysis indicates that gun killings decreased substantially during the enforcement effort while nongun killings did not. The time series of nongun killings reveals no significant change in the rate or trend in homicides.<sup>198</sup> Gun homicides, using February 1970 as the first month in which an effect would be

<sup>197</sup> The monthly data were originally provided by Chief Jerald Wilson's office. When subsequent checks with homicide records revealed a number of months where the Chief's figures and the Homicide Unit figures diverged, the planning department of the police force audited the 1969, 1970 and 1971 monthly reports. The figures for the thirty-six observations during these years are not the same as reported to the FBI, although the deviations are relatively minor. Also, justifiable homicides have been deleted from these months.

<sup>198</sup> The nongun killing series had 49 pre-intervention observations and 23 post-intervention observations based on an assumption that February 1970 is the first "post" observation. The estimated change in level is an additional .99 killings per month, which is not significant at the  $< .05$  level ( $T = 1.36$ , significant at  $< .10$ , with 68 degrees of freedom). Nongun killings were also run assuming delays in enforcement impact of three and seven months, respectively, with no significant change in the volume of killings noted.

Figure 12 presents a graphic representation of the nongun series.



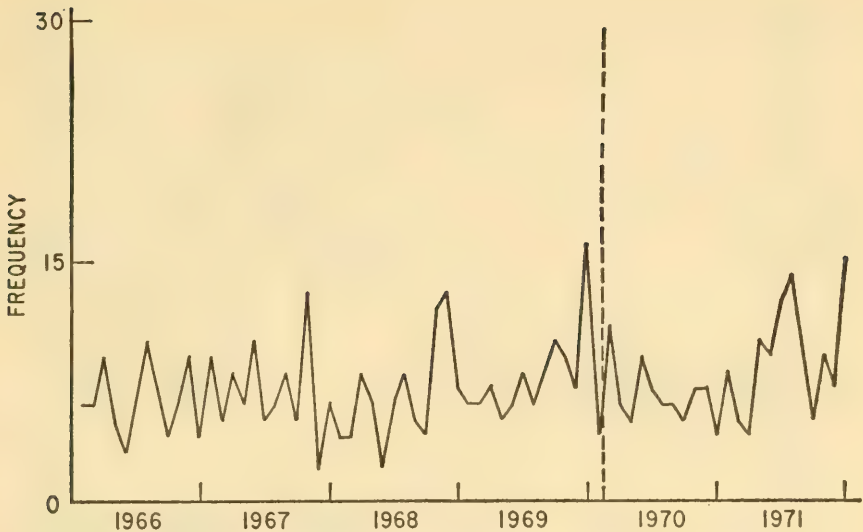


FIGURE 12  
NONGUN HOMICIDES BY MONTH, WASHINGTON, D.C., 1966-1971

expected, decline in subsequent months.<sup>199</sup> While the program used for the analysis is not well suited to studying the impact of enforcement efforts, the results in this case suggest some short-term enforcement effect and this suggestion is confirmed by use of a second program more suited to studying enforcement effect.<sup>200</sup>

The data on aggravated assault tell a different story. Monthly assault data were not available covering months prior to 1969. Figure 14 provides yearly data on Washington assaults since 1966, and Figure 15 gives quarterly data for assaults from 1969 through 1973.

Gun assaults do not decline, while nongun assaults fluctuate in a pattern

<sup>199</sup> The gun-killing series had the same 49 pre-intervention months and 23 post-intervention months, based on February 1970 as the first "post" observation. The estimated change in level is a reduction of 8.59 killings per month ( $T = -3.14$ , significant at  $< .005$  with 68 degrees of freedom.)

Figure 13 presents a graphic representation.

<sup>200</sup> The problem with using standard time-series programs is that enforcement programs might have an accretive impact on gun supplies. Since our outcome measure is directed to handgun scarcity, it is to be expected that the enforcement effort will lead to greater scarcity after two months than one, and the model of impact should be cumulative. Indeed, if the major impact of Operation D.C. was putting gun traffickers out of business by arrest, and if arrest kept the trafficker out of circulation for six months, the impact of the program should be six times as great after six months as after one.

After the initial analysis had been performed, Professor Gene V. Glass of the University of Colorado performed a time series analysis of the Washington data using a program which postulated the impact of the campaign accretively, as a gradual reduction in gun killings to reflect the cumulative impact of the campaign on gun scarcity. The model

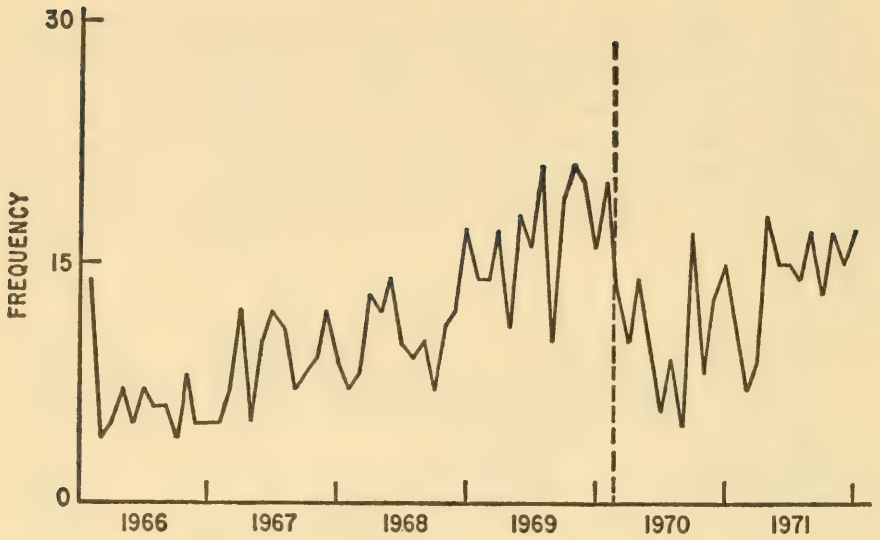


FIGURE 13  
GUN HOMICIDES BY MONTH, WASHINGTON, D.C., 1966-1971

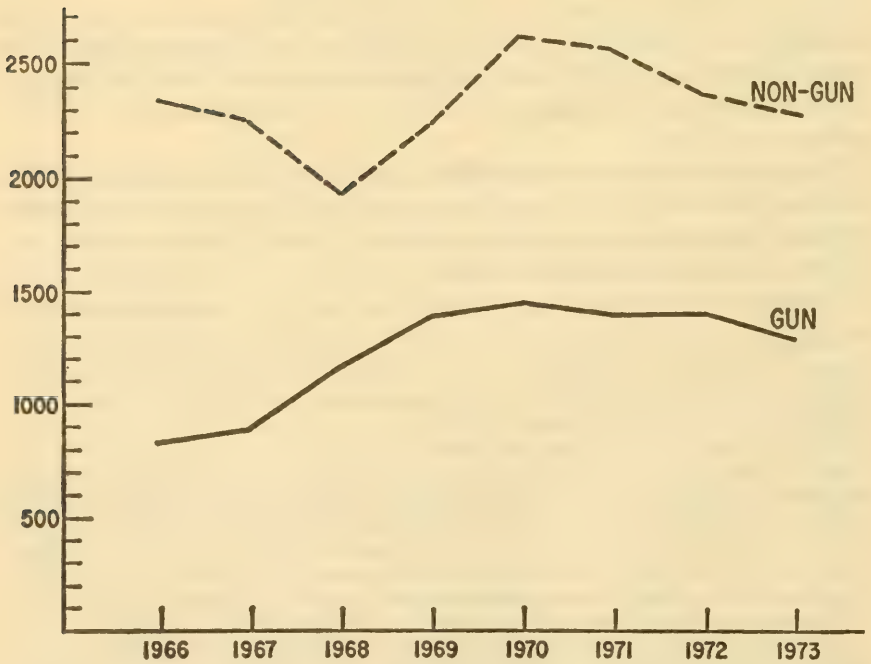


FIGURE 14  
GUN AND NONGUN ASSAULTS BY YEAR, WASHINGTON, D.C., 1966-1973

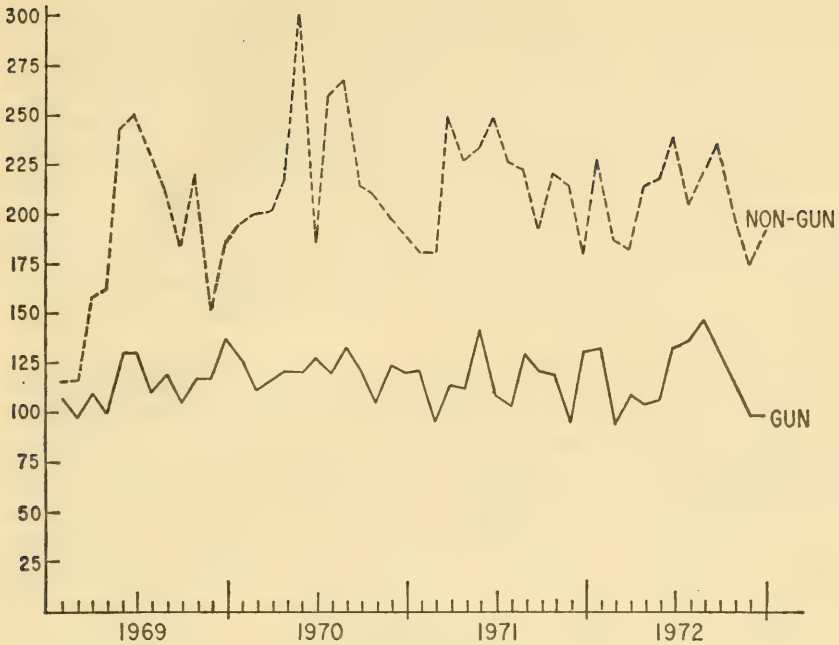


FIGURE 15

GUN AND NONGUN ASSAULTS BY QUARTER, WASHINGTON, D.C., 1969-1972

unrelated to enforcement. On a yearly basis the flat 1970 performance appears encouraging, since gun assaults had been increasing steadily prior to 1970. However, with insufficient data to perform a time-series analysis and with no dip in the level of gun assaults similar to the mid-1970 dip in gun killings, the assault data do not support the hypothesis that Operation D.C. substantially affected the migration of handguns into the District of Columbia.

Taken as a whole, the data on Operation D.C. suggest that special enforcement efforts might produce measurable impact on gun crime. But the undramatic data on assaults and the brevity of the experiment leave uncomfortably ample room for debate on whether such an exercise can produce results worth its costs.

predicted the following proportions of full impact by month for the program on gun killings in 1970.

Jan.	0	July	6/6
Feb.	1/6	Aug.	5/6
March	2/6	Sept.	5/6
April	3/6	Oct.	4/6
May	4/6	Nov.	3/6
June	5/6	Dec.	3/6

Succeeding months predicted a drop-off of 1/6 in effectiveness every two months. This "slow drop" model is a slightly better fit to the data than the model used in note 199 *supra*, with a T value of 3.52, with 70 degrees of freedom.

In sum, on the available data, the Gun Control Act has not produced any measurable change in the migration of handguns from loose-control to tight-control jurisdictions. It appears that the interstate movement of handguns into tight-control areas was not interrupted by the Act because the 1968 scheme of records and regulation did not inhibit large-scale purchases from dealers in loose-control jurisdictions for interstate transportation to north-eastern city streets. A.T.F.'s single experiment with concentrated enforcement produced suggestive but not conclusive evidence of impact. It is unknown to what extent the difficulty of the task as opposed to the absence of sufficient manpower is the explanation for the lack of measurable impact of the Act on interstate handgun migration.

It is also difficult to speak with confidence of the inherent difficulties of the Act's state-aid approach because many remediable difficulties have hampered the enforcement of the "state-aid" sections of the Act. Thus far, A.T.F. has been operating with (1) an insufficient information base for allocating enforcement resources, (2) lack of coordination between regulatory and criminal enforcement efforts, (3) regulations that fall far short of the power delegated by the Act to suppress interstate handgun migration, and (4) a manpower-allocation policy that spreads a thin coat of inadequate resources nationwide. Each of these problems deserves further elaboration.

Although some progress has been made during the past year, A.T.F. still lacks much of the information it needs to plan enforcement policy, and allocate criminal enforcement resources, rationally. Before mid-1972 the Bureau did not require any information from manufacturers on the number of guns they produced. At present, this information is collected on a quarterly basis, but no data are available on the number of firearms sold in specific regions, either at retail or wholesale, and there is no way that regulatory manpower can be allocated according to variations in patterns of firearm traffic. Lack of basic data has also hampered criminal enforcement efforts. High or disproportionate volume of handgun sales in a particular state is a clear indication that the state is a launching pad for interstate handguns. Data on handgun sales could also prove useful in monitoring changes in points of origin for guns transported in violation of the Act. Criminal enforcement efforts have also been hampered by lack of information on who is transporting handguns in violation of the Act and how the guns get from loose-control to tight-control states. Project "I" is the Bureau's first venture toward gathering these necessary data, but that operation has not yet traced a representative sample of handguns confiscated in tight-control cities beyond the point of first retail sale.<sup>201</sup>

<sup>201</sup> An effort to do this as part of Project I, phase 2, has been planned by the Bureau. However, the manpower cost of tracing beyond first purchase has prevented any district office from implementing the trace.



Related to insufficient data is the apparent lack of coordination between the regulatory and criminal enforcement segments of administration of the Act. Even though much of the regulatory work required under the Act has been performed by Special Agents with arrest powers, there has not been sufficient use of regulatory powers to facilitate criminal enforcement ends. Millions of forms giving details of gun transactions lie fallow in dealer record books. The decentralized nature of these records and limited manpower make a complete audit of these transfer records impossible. Yet a careful sampling of regulatory enforcement records can show what types of transactions, customers, and locations are most closely associated with criminal violations of the Act.

An example of the use of regulatory data to set both regulatory and criminal enforcement priorities comes from an analysis we conducted of 100 dealer-compliance investigations in the Chicago district office of A.T.F. As part of the compliance investigation, records of individual transactions were selected by the inspector and verified as to the purchaser's address and criminal record. Some transactions are chosen by the inspector at random, some are chosen because the purchaser's address appeared to be in a high-crime area, and some because more than one gun was purchased. A number of analyses can be performed with this sample of purchase records. Table 9 shows the percentage of apparent violations of the Act found in the audit.

More than half of all multiple firearm purchases involving handguns appeared to violate the Act, compared with a one-per cent estimated violation rate of transactions selected at random. From all appearances, regulatory audits should concentrate on multiple handgun transactions, and the criminal enforcement branch has a special stake in acquiring information on the number and pattern of such transactions.

This is only one example of how coordinated sampling of firearms trans-

TABLE 9  
RATES OF APPARENT LAW VIOLATION

	Reason for Verification			Total
	At Random	High-Crime Area	Multiple Weapons	
Firearm(s) Purchased				
Handguns	2%	7%	58%	10% <sup>a</sup> (N = 370)
All Others	0	2%	0	1% <sup>a</sup> (N = 141)
	1%	7%	50%	
	(N = 184)	(N = 287)	(N = 24)	511

<sup>a</sup> Includes 15 cases that could not be classified.

Source: U.S. Treasury Dep't, Bureau of Alcohol, Tobacco and Firearms Records.

actions can aid in isolating enforcement priorities and in producing data on the extent to which the law is being observed. The regulatory branch could also follow up on transactions in a sample of cases to see how many guns in particular areas are no longer traceable to a local owner after one year. The criminal enforcement unit could trace confiscated big-city handguns from first purchasers as far forward in the chain of commerce as is possible. This would provide information on how interstate movement occurs and suggest ways in which the record-keeping and information systems presently used might be altered to depress the present rate of interstate handgun migration.

It is true that the decentralized nature of transaction information makes the gathering of intelligence both difficult and expensive. But much of the problem could be solved by new regulations within the powers granted under the Act. Requiring dealers to keep records of sales by type of gun is a normal and far from onerous duty of a federally licensed business. Requiring dealers to notify A.T.F. of multiple retail handgun sales is justified, either because of the high risk that the recipient is acting as an unlicensed dealer or because such guns are more frequently shipped out of state in violation of the Act.<sup>202</sup> A requirement that dealers verify local residence beyond inspecting identification documents would be a harder issue under the Act but could be defended on a variety of grounds.

To criticize A.T.F. for spreading its manpower too thinly is something of a shot in the dark, if only because the Bureau does not have the information on which such a judgment can be based. It is known that "state aid" was a high priority of the 1968 Act, and it is likely that far fewer than 30 per cent of all prosecutions under the Act concern interstate shipment of handguns and long guns. The total agent staff in New York City was estimated at 63 last year, which appears low in relation to New York City's dominant role as a receiver of interstate handguns. But without knowing where guns are sold, how they come to tight-control states, and how effective various strategies are in reducing interstate flow, it is difficult to criticize a pattern of manpower allocation; it is equally difficult to formulate a rational allocation without such data.

With respect to the state-aid aims of the Gun Control Act, it is not possible to determine whether interstate migration of guns continues because the approach of the Act is hopeless or whether lack of strategic intelligence and enforcement manpower are a major source of the difficulty. There is every indication that we had better find out soon. Political support for a more extensive federal role in firearms regulation is difficult to measure or predict.

<sup>202</sup> Rex Davis, the director of the Bureau, has announced his intention to draft a regulation requiring dealers to notify the Bureau of multiple handgun sales, but no regulation had been drafted at the time this article went to press.

But changes in federal law, if they occur, will either take the form of attempts to strengthen the present state-aid system or will scrap the approach in favor of a national control system, either licensing owners or limiting production. It would thus seem appropriate to test the preventive potential of intensive enforcement of the ban on migratory weapons.

At the same time, a nationwide expansion of enforcement large enough to test the impact of manpower would be expensive and impractical in the near future. A.T.F. has a limited number of special agents and the lead time necessary to train more agents is substantial. Further, the type of federal police work necessary for the detection of black-market firearms sales has a high component of "street work"—and a large expansion of this element of the Bureau's work raises the specter of a national police force. More likely, any attempt to spread an increase in enforcement power over too wide an area would result in insignificant increases in the Bureau's ability to enforce the law.

The appropriate next step is a sustained effort to increase enforcement in one or two major tight-control jurisdictions. Depending on available resources and police cooperation, Washington, Boston, or New York would seem to be admirable candidates for such a study. The data from the New York handgun analysis by Project I would implicate South Carolina, North Carolina, and Florida as sending areas worthy of special enforcement and regulatory efforts. A fair test would involve a tripling of enforcement and regulatory manpower over at least a two-year period.

These comments are based in the premise that the state-aid sections of the Gun Control Act were intended as a mechanism to reduce the flow of firearms into states and cities attempting to restrict gun ownership. It is, of course, possible that Congress did not place a high priority on that aim but adopted state aid as an ideological compromise. If so, the compromise may have worked admirably without any sign of reductions in firearms violence and the administration of the Act by A.T.F. has been, if anything, too energetic.

#### IV. CONCLUDING REFLECTIONS

The present study was intended both as an investigation of the impact of a single piece of legislation and as an attempt to gain perspective on larger issues relating to guns, gun controls, and the legislative process. This section addresses a few of these larger issues. In doing so, I will often venture opinions that are not rigorously supported by existing data.

Without doubt, the role of firearms in American violence is much greater in 1975 than in 1968. Rates of gun violence and the proportion of violent acts that are committed by guns have increased substantially since the Gun Control Act went into effect. Behind these increases lies the probability that



handgun ownership has become at least a subcultural institution in the big cities which are the main arena of American violence. During this period, regional differences in gun ownership and use have been moderated as the large northeastern cities that were traditionally areas of low ownership and use have experienced large increases in handgun use.

The special role of the handgun in urban violence is one of the more obvious lessons of the data we have assembled. For many purposes it seems more appropriate to divide recent fluctuations in homicide and assault into "handgun" and "other" categories than to speak of homicide rates as an aggregate—since 1966, rates of handgun homicide have increased more than three times as much as homicides by all other means.

The data gathered in the present effort suggest, but do not compel, two other conclusions about patterns of handgun ownership and violence in the United States. First, the sharp rise in the proportion of violence attributable to handguns in northeastern cities may lead to modification of the hypothesis that general patterns of handgun ownership determine the extent to which handguns are used in violent episodes. While it is still true that those regions with the highest general levels of gun ownership have the highest proportion of gun use in violence, the past decade has produced an increase in handgun use in the Northeast that leaves cities in that region closer to but still below the national average handgun share of violence. This could be due to a substantial rise in handgun ownership in the general population in these cities, but that would mean that a vast northeastern urban handgun arsenal has been accumulating during the past ten years. It is more likely that handgun ownership increased substantially among subcultural groups disproportionately associated with violence without necessarily affecting other parts of the population. It is, to give a concrete example, neither necessary nor likely that gun ownership among middle-class New York Jews (other than small merchants) has increased dramatically in the past decade as New York handgun homicide has increased.

If one adopts a "subcultural" explanation of the relationship between gun ownership and violence, hypotheses about the effect of increases or decreases in handgun ownership on handgun violence should take a slightly more complicated form. One would predict that high levels of handgun ownership produce high levels of handgun violence for two reasons: more handguns are available at a moment of perceived need and high ownership rates necessarily suggest high levels of handgun availability to all potential consumers. Low general levels of handgun ownership, on the other hand, become the necessary but not sufficient condition of low levels of handgun violence. If the lower-than-average general ownership levels are still high enough to create relatively easy handgun availability, and if both handgun ownership and propensity for violence are concentrated in discrete subpopulations, lower-than-average gen-



eral ownership is an inadequate insurance policy against increases in handgun violence. It is only when ownership levels are low enough to have an impact on handgun availability that low aggregate ownership will depress handgun involvement in rates of subcultural violence.

A second tentative implication of this study—somewhat more directly inferred from the data—is the so-called “new guns” hypothesis discussed earlier. For reasons that have not yet been adequately explored, new handguns are involved in crime at higher rates than older handguns. This may be of importance in designing firearms control strategies and also suggests need for further refining hypotheses about the relationship between general levels of handgun ownership and the rate of handgun use in crime. In urban settings where new handguns are available these guns are purchased by persons who plan to use them. Older handguns include a large number that are packed away in attics or kept in homes for self-protection. Such weapons show up in crimes or confiscations only if used by their owners or transferred by sale or theft to other individuals. One would thus expect a smaller proportion of older guns to be confiscated. As long as the chances of transfer are relatively small, each new handgun will have much more impact on handgun availability than each older gun owned by the civilian population. As long as the average person who wants to buy a handgun this month is more likely to misuse it than the average person who already owns one, handgun availability will have more impact on trends in violence than handgun ownership.

What have we learned about the role of the federal government in gun control? The data presented in these pages cannot show that a particular strategy of firearms control is appropriate for the future, for that is an issue that requires value determinations as well as empirical data. The data do suggest, however, that any further initiatives in gun control should be focused on handguns. There is also, in the history of the administration of the Act, an intriguing contrast between what I would call “gatekeeping” and policing strategies of federal control. Whatever went wrong with the prohibition on imported “Saturday Night Specials,” enforcing the ban was clean white-collar work of a type normally undertaken by federal regulatory agencies. Attempts to keep handguns away from criminals and outside the borders of tight-control jurisdictions require more police work. In this effort the role of A.T.F. is best compared with the narcotics enforcement efforts of the federal government.

Efforts to limit handgun supply on a national basis, by limiting legitimate production, or imports, or both, will not require a large federal street police force. At the point when market controls make illicit gun production profitable, some police work will obviously be needed, along the lines of controls on illicit liquor production.

Any federal control strategy that seeks to regulate firearms possession with-

out regulating production and imports requires more policing, both because the number of guns will remain large and because keeping guns out of the hands of subclasses of the population is extraordinarily difficult when guns are freely available to others.

There is, however, one important difference between the criminal enforcement of federal narcotics laws and present federal gun laws: virtually all guns that come into illegitimate hands come from the legitimate market. For this reason, records kept by dealers may provide criminal enforcement agents with an information base that is not present in narcotics control. But as long as transaction records are decentralized and limited to first purchases, this advantage is of limited importance.

Data from the first five years after the Gun Control Act are a poor source of information on the consequences of handgun scarcity, because handguns have not been scarce. Thus, the extent to which handgun use would be replaced by long guns and the use of "homemade" weapons in crime cannot be tested by examining the impact of the 1968 Act. It is also important to note that the relatively small proportion of violence attributed to older handguns in New York City does not mean that older guns will not be a more serious problem if the flow of new handguns is interrupted. If production and imports are interrupted, the primary source of handguns would be the existing civilian inventory. The pressure to acquire guns would drive up the price of older guns, creating incentives for both owners and prospective burglars that increase the chances that old handguns will be transferred to new owners. Again, however, experience since 1968 gives no basis on which to estimate the extent or consequences of this tendency.

Thus, studying the impact of the Gun Control Act gives only limited insight into the consequences of more restrictive federal gun control policies. I am also convinced that the legislative history of both the 1968 and 1938 Acts tell us little about the shape of future federal gun control efforts. It is possible (*vide* the Federal Firearms Act of 1938) that the Gun Control Act of 1968 will be controlling federal law into the next century. But political sentiments about firearms control may prove more fluid than some commentators believe. It is only if the firearms issue remains as unimportant as it has been to date that one can predict future legislative behavior from prior congressional action.

Whatever the future holds, the federal Congress is unprepared to make intelligent policy choices concerning the federal role in firearms regulation. The Bureau of Alcohol, Tobacco, and Firearms, with all its faults, has an informational monopoly on firearms regulation. No committee of the Congress has paid sustained attention to the administration of the Act, or prodded the Bureau toward producing the kind of information that is needed for intelligent planning. With sporadic exceptions, those members of Congress

that introduce new firearms proposals are failing to obtain or use available information. In the near future any real reform in the administration of the Act will have to be internally generated by the Bureau. If Congress is supposed to be the policy-setting institution, the Gun Control Act of 1968 may stand as an example of the blind leading the halt.

[Testimony continued from p. 125.]

Mr. DAVIS. Sir, if I could respond to that. I am, of course, very familiar with Professor Zimring's report. My best recollection is that this was based on a survey of guns used in crime in Chicago. I do not know that we have statistics or anything that would either confirm or deny that analysis.

Senator BAYH. I guess it is not necessary to nail it down to the ultimate decimal point, but I guess we can recognize that that is part of the problem.

Mr. DAVIS. Yes, sir. That certainly is, and we could give you an estimate for the record.

Senator BAYH. Yes, if you could. We do not want to spend a lot of time and provoke a lot of people about something that would not even have an impact on the abuse of firearms. I think this is an important aspect.

#### INTERSTATE COMMERCE BY UNLICENSED DEALERS

And if you concur, I would like to know how great a problem it is; thus, we will be better able to deal with the importance of it. Another major objective of the 1968 act, of course, is to eliminate interstate commerce in firearms between unlicensed dealers.

How successfully has that part of the act been implemented? The New York-South Carolina statistics have been bandied back and forth here as evidence of some problems.

Mr. DAVIS. Yes sir. First, I would say that the 1968 act has been very successful in the elimination of the mail order sale of guns, which as I understand it, was one of the major objectives of the act itself. On the basis of Project I identification, which we have now conducted in 12 cities and are completing four additional, I think they show that there is still a tremendous interstate traffic in handguns between various geographical areas of the country.

Senator BAYH. Do you have enough personnel to implement this particular provision of the act? Are there other provisions of the act which you feel could be utilized more, than at present, if you had the resources necessary? My distinguished colleague from Nebraska and I are both on the Appropriations Committee, and are interested if, indeed, this is part of the inability to come to grips with the illegal use of firearms.

Mr. DAVIS. Well sir, I think certainly from the evidence that we have, resulting from Project I and other various studies that we have made, that this is a part of the problem that State and local law enforcement officials are least able to deal with. In other words, the introduction of guns, firearms, into a locality—State, city, or municipality—from other areas—certainly I think this is where ATF can be of most assistance to State and local law enforcement organizations. And we do not have sufficient personnel to adequately enforce this provision of the law in my estimation.

Senator BAYH. Could you please give us an assessment for the record, so that we will know just exactly what you need in the way of personnel and appropriations to do the job the way you think it ought to be done?

Mr. DAVIS. Yes, sir.<sup>1</sup>

<sup>1</sup> See subsequent information, p. 242.



Senator BAYH. I suggest that you do that without feeling that you are under limitations of other agencies. We would like to have a direct assessment from those of you who are charged with the field responsibility, and then let us make a legislative determination as to how this kind of money ought to be spent.

#### TOTAL INFORMATION AND BREAKDOWNS NEEDED

Senator HRUSKA. Mr. Chairman, may I speak to that briefly? Justification sheets for your fiscal year 1976 indicate a total for your entire Bureau of about \$101 million. The way I read it, about \$53 million is for firearms regulation and enforcement. I am reading from the justifications now.

In terms of personnel, the total number of permanent positions are 4,151 for the entire Bureau. It is not broken down as to firearms and alcohol, tobacco, and so on. If you are going to give us any figures of what you need to do a job monitoring interstate commerce, and also monitoring licensed dealers, you had better give us also an idea of how often you are going to see each dealer, or which you are going to miss, or whether it is a spot check or what it is going to be.

The massiveness of the thing with a total of, what, 156,000 present licenses, is quite formidable. Now maybe with these amendments we can reduce that number a good deal, and some of them, like gunsmiths and others, will not need quite the amount of monitoring and policing that the others would. Maybe that will reduce the problem and make it a little more practical.

But in your estimates of what you think you might need for an effective police job, and monitoring job in this area, tell us what you propose to do.

Mr. DAVIS. We have tried to isolate the variables, Senator. That is the problem—trying to isolate the variables. So what we are telling you is what kind of a job we are trying to do and also assuming that these proposals are either enforced or not, because there is a difference in the cost if they are enforced and if they are not.

Senator HRUSKA. There is a great deal of difference, and Congress has a big role to play in this. And when we come to a criticism of the Bureau, or of the law and its adequacy, maybe we had better turn to the mirror and look at ourselves—those of us who are in the Congress—and say, wait a minute, where are the resources with which that work can be done?

And it is like so many things. For example, we had this problem in the Packers and Stockyards Act on enforcement of meat standards where we gave the Department of Agriculture a tremendous workload, but gave them no money, and then we turned to them and asked them, why did you not do the job?

Well we had to run for cover in a hurry as a Congress when that fact was brought out by cross-examination; that without funds they cannot do things. And Congress is the only one that can give them funds.

Senator BAYH. I certainly concur with what my distinguished colleague from Nebraska said, but I would like to put in one little caveat.

We do know that there are certain things that are hard facts of life as far as budgeting procedures requests. That Congress seldom gets the information from those who know it because of shortstops in between. And without escalating that controversy, I would think that if you gentlemen report directly to us what you really think you need, then we can then make a better appraisal.

Senator HRUSKA is on the subcommittee and, of course, is vitally concerned about this whole matter.

Senator HRUSKA. Mr. Chairman, there is nothing to prevent any of us in the Congress—and the Senate certainly—that I know of from asking these people what their original budget request was as it was submitted to the Office of Management and Budget. Now they are not permitted to volunteer it, but if they are asked the question, that comes not within the Freedom of Information Act, but within the prerogatives of the Senate.

Am I correct, Mr. Secretary?

Mr. MACDONALD. We respond to that questions every day in front of our Appropriations Committees.

Senator HRUSKA. Therefore, I subscribe to the idea, Mr. Chairman, that we get this estimate directly from the Bureau.

Senator BAYH. So there can be no question, I hope that you gentlemen will interpret the colloquy here as being an official request for said information.

Mr. MACDONALD. We do that.<sup>1</sup>

#### CONCERN OVER DECREASING ATF ACTIVITIES

Senator BAYH. And this could very well be related to the next question I would like to raise.

In looking at the first 6 months of the present fiscal year, I must say I am concerned that it looks like the ATF's activities are decreasing.

Mr. MACDONALD. Which figures are you addressing yourself to, Mr. Chairman?

Senator BAYH. Just let me recite them to you.

Total prosecution recommended in fiscal 1973 and 1974, 3,677, 4,671, respectively. For the first 6 months of fiscal year 1975 however, there have only been 1,151 cases recommended for prosecution.

If you look at compliance investigation, there has likewise been a decline from 16,033 in fiscal year 1973 and 15,751 in 1974, to 5,691, it looks like. It has about been almost a 50-percent decrease there at an annual level in the first 6 months.

Now here we are in a situation where we have a 17-percent increase in criminal activity which would at least lead one to assume there has also been a corresponding increase in criminal activity in this area. And yet, the number of total prosecutions recommended and the compliance investigations have fallen off.

Could you tell us why those figures are as they are?

Mr. DAVIS. Yes sir, Mr. Chairman.

In 1973, we made the decision that the inspection of dealers could be more economically, and as equally well done by our inspectors rather than our special agents as more in line with the kind of work

<sup>1</sup> See p. 242.

they have traditionally done, and they are more equipped to do it. But this decision of the transfer of this work was presumed on an increase in our inspection force and we have not received the number of inspectors that would be necessary to make the switch.

As you can see there, we are gradually shifting over to the extent we can, and I think this accounts for a good part of the thing. We are more and more using our special agents in purely law enforcement work in attempting to make the switch. And I think in the process of the transition that we have, very frankly, fallen off in the application of agent time to this activity.

Senator BAYH. The total number has fallen off significantly. If you are switching over, what has happened to the ones that are falling through the cracks?

Mr. DAVIS. Well sir, I think again it is a product of the transition, of attempting to shift this work over and not having enough inspectors to accept the responsibility. At the same time, probably a little prematurely, using our special agents on law enforcement work so that the inspection activity has fallen off.

Senator BAYH. That is compliance investigation, right?

Mr. DAVIS. Yes sir.

Senator BAYH. How long is it going to take you to get that turned around so it will be going up instead of down?

Mr. DAVIS. Well sir, again, it will depend to some extent on the availability of manpower resources. Again, if I could point out, we are increasingly using our agents on projects such as project identification which, not only is productive of criminal cases but is also productive, we feel, of information that is of value to the Congress and to the administration in terms of learning more about the flow of guns in the United States. And these are very demanding on our agent manpower resources.

Mr. Chairman, I think that is about the best explanation I can give you. We are trying to make the transition and, in doing so, I think we have fallen off.

#### TOTAL PROSECUTIONS OFF NEARLY 50 PERCENT

Senator BAYH. Well I do not want to second guess you fellows there as to how you do your job. If you feel you can use the agents more effectively to stop illegal activity in other ways, that is a judgment only you can make.

We mentioned earlier that you ought to let us know what additional resources you need. But what concerns me is, if you look down here at the end of the pipeline, it would seem to me that however you use your resources the ultimate test would be your ability to deal with violations. Where the total prosecutions have fallen off—I understand, your in transition as far as investigations—but why is it that the total prosecutions recommended have fallen off rather precipitously? About half this year compared to last year. Does that not alarm you?

Mr. DAVIS. Yes sir, it does.

Senator BAYH. At a time when crime is going up! That really concerns me.

Mr. DAVIS. If I can, I would like to explore that to a little greater detail with staff and try to isolate, if I can, the exact reason for that decline. And again, to make it available to the subcommittee.<sup>1</sup>

Senator BAYH. Well I wish you would. As I say, I am not about to tell you how to do your business, but I do have an oversight responsibility when looking at the results. And if the results are going in the wrong direction, then I and the subcommittee have a responsibility to say, well, wait a second gentlemen, let us reassess where we are going. And if you would take a look at that and then get back to us, we would appreciate it.

Could you give me your thoughts about the theft problem?<sup>2</sup> I notice that looking at your midwest dealer theft survey here, of the 23,000 dealers, you found 1,367 thefts of 5,900 firearms in 1 year.

Now if you look at the total crime picture, can you give the subcommittee some assessment as to what extent theft of firearms plays in the commission of separate felonies. For example, in the commission of felonies, what percentage of the weapons used in the commission of felonies are secured through legitimate channels, and what percentage are secured through theft?

#### PROBLEMS AND MAGNITUDE OF GUN THEFTS

Mr. DAVIS. Yes sir, we can do that. We have analyzed, for example, the 33,000 traces that we performed last year. For example, we know that a percentage of those were untraceable, and these are guns used in crimes. They were untraceable because they had been stolen.

We know the general magnitude of theft.

Senator BAYH. How many were untraceable?

Mr. DAVIS. My best recollection was that there were about between 7 percent and 8 percent of those we traced.

Senator BAYH. Untraceable because?

Mr. DAVIS. They had originally been stolen. And obviously when they are stolen there is no way to trace them.

We know the magnitude of theft, we think, fairly well. For example, as a result of the midwest dealer survey, and extending it, which I think is logical, to the dealers in the entire United States, we know that there are about 35,000 weapons a year stolen from dealers' premises, either singly or in groups, by forceable entry.

We know that the magnitude of theft from individuals runs at least 100,000 weapons a year. And I would say that is quite conservative. The reason we know that is that that many are introduced into the National Crime Information Center each year.

We know on the other hand, that many gun thefts are not reported. So that is why we say it is a conservative figure. I would probably not hesitate to double that to make it 200,000, but at least 100,000 is on a very firm basis. We know that from interstate transportation of guns between manufacturers to dealers, and so forth, that the figure runs something like 10,000 thefts a year.

Senator BAYH. Are you telling me that with the large number of thefts you describe that those amount to less than 10 percent

<sup>1</sup> See subsequent information, p. 239.

<sup>2</sup> See subsequent information, p. 241.



involved in the commission of felonies? Conversely then do 90 percent of the felonies involve weapons that are secured by legal means?

Is that an accurate interpretation of what you just said?

Mr. DAVIS. Well sir, the problem lying there is the fact that while we receive requests in the number of 33,000 from State and local law enforcement officers, about half of those being from that source, we by no means receive trace requests from all the law enforcement organizations throughout the United States. We deliberately have not advertised the availability of this because of the magnitude of the problem it would present.

But on the basis of what we have, those guns are untraceable because of theft. Now this would only be to the extent that the theft occurred before the first purchaser—in other words, if in fact a theft occurred after the disposition by the dealer, then obviously it would be traceable. So that, in effect, we are saying that if the theft occurred from an individual it would not be included in that 7 percent or 8 percent figure. So these are thefts that occur before the disposition by the dealer to an individual.

Senator BAYH. OK; 7 percent or 8 percent are thefts prior to the sale from dealer to the first retail purchaser?

Mr. DAVIS. Yes, sir.

Senator BAYH. Now give me a ballpark estimate in your trace of how that breaks down. In other words, you pick up a firearm. In your trace can tell you that it has been stolen from that individual?

#### TRACE OF FIREARMS USED IN CRIME

Mr. DAVIS. Well, sir, again, it is a product of the way this is done. If a sheriff or a chief of police asks us for a trace on a firearm that has been used in a crime, we tell him that that gun was sold by dealer XYZ in your city. At that point the sheriff—we may even tell him, depending on the nature of the case, the name of the individual who bought it. Now from that point on we lose contact.

In other words, the sheriff may go to the person who purchased that gun, and the guy says, look, this gun was stolen from me a month ago. We just do not have the information, because of the nature of the way the investigation or the trace results are followed out. I might say that—for what value it is for the committee—that we are responding to a request from the House Subcommittee on Crime in which we will attempt to trace, physically, by agents, the path of a representative sampling of the guns seized in New York—perhaps 300, which will be 10 percent—to find out how they got from the place where they were sold initially to being used in the crime from which they were traced.

So this means, of course, the devotion of a lot of manpower. This means that if it were sold in South Carolina, you go to the first purchaser and say, what did you do with it. And he says, I gave it to my brother. You go to the brother, what did you do with it. And you have to follow, literally step-by-step, back to the point it was used in the crime.

But we are in the process of gathering this kind of information, and maybe this will shed some light. I am sure some of it will be stolen.

Senator BAYH. When would you be able to report on that study?

Mr. DAVIS. Sir, knowing the kind of task involved, I would say in something like 60 days.

Senator BAYH. Could you let us have that information also, please. I certainly would not think you ought to duplicate it because it is a rather onerous burden.

Mr. DAVIS. We would be very happy to.<sup>1</sup>

Senator BAYH. We really need to more specifically define the nature of the problem. We know it is out there, and of course, the immediate response is that if the criminal wants a gun badly enough he will steal it. Well, that is probably accurate. But if it is easier for him to go—and in most instances he does—and buy a handgun legally, then I think we have a different problem than if most of these crimes are committed by handguns that are stolen.

So to the extent you can give us that information, I think it would be very helpful to us.

Are licensed manufacturers, wholesalers and dealers required to report thefts and losses to you?

#### LICENSEES NOT REQUIRED TO REPORT THEFTS

Mr. DAVIS. No sir, they are not.

Senator BAYH. Why?

Mr. DAVIS. Well, let me say that we could require manufacturers, wholesalers and dealers, under existing law, by the promulgation of regulations, to report to us the loss or theft of firearms as being a type of disposition. We have not moved to require that.

Senator BAYH. Is that not worthy of consideration?

Mr. DAVIS. Sir, I might point out that we have done something else in this area which might be of interest to the committee.

We have an interstate firearms theft program in which we have gone to the carriers. You might say we did this on the basis of reports that large quantities of firearms were being stolen while they were being transported interstate. We went to the carriers of the country and asked them voluntarily to report to us. They are under no obligation to voluntarily report to us thefts of firearms. I might say they have cooperated very fully, and we are now getting reports of thefts from interstate carriers and other places.

We have made, for example, 22 cases involving 44 defendants. The incidents of gun thefts have dropped off drastically. Because of this program there has been an intense tightening up of security. I think for the record I can say that Colt Firearms, for example, has started shipping their guns in containerized fashion. They are secure; they are taken to the airport under security and they are received under security.

My information is that one of the largest private package-handling services has installed magnometers to prevent the theft of guns from their premises, and these sort of things.

<sup>1</sup> See subsequent information, p. 247.

Senator BAYH. Could you get us information as to how large a problem this is? How many weapons are stolen in this manner, in the transit or prior to the broker, at the dealers?

Mr. DAVIS. Yes, sir.

Senator BAYH. One of the things this subcommittee has tried to do in another area of responsibility—as far as certain types of drugs—we have various schedules that require different standards of security. We certainly ought to be able to require—if Colt is doing it voluntarily, more power to them—that less reputable manufacturers or wholesalers meet that same standard; especially if we find there has been a direct fall off in the number of thefts by requiring a high standard of security, then it seems to me that by regulation, by law, we ought to require that.

Could you give us for our record an analysis of just how critical a part of the problem this is?

Mr. DAVIS. Yes sir, we would be very happy to provide that.<sup>1</sup>

Senator BAYH. I just have a couple of more questions here. I know the hour is late.

I want to salute you for moving, by regulation and your present authority, to cover these pen guns. I note that about a million have been sold. The FAA seized between 3,000 and 5,000 of these from persons boarding aircraft. I am glad that you have taken the initiative on that, because it certainly presents a problem. If there is additional authority you need to have, I am sure this subcommittee would be more than willing to provide it to deal with this problem. But from what I understand from communications between your staff and this body, this is not a limiting factor.

#### PAWNSHOP SALES RELATED TO CRIME GUNS

Let me ask you about the pawnshop situation. You mentioned, as I recall, significant number of handguns used in the commission of crime were secured from pawnshops. Is that accurate?

Mr. MACDONALD. Had passed through pawnshops—30 to 35 percent.

Senator BAYH. Now were these legal acquisitions? Did the pawnshop obtain it legally. Did the user in the commission of a felony obtain it legally?

Mr. MACDONALD. Probably for the most part.

Senator BAYH. 30 percent.

Mr. MACDONALD. Yes. The pawnshop is a common repository for weapons that have been used in crime.

Senator BAYH. Certainly that is a repository that really is of no benefit to the sportsman or the householder, I would assume.

What sort of a furor would we encounter if we legislate that pawnshops could not sell firearms. There they are, just sitting in the window. They are sold very cheaply, or cheaper than you could get them at a legitimate dealer. Is this wise?

Mr. MACDONALD. I think we lack a tax approach, and tax and inspection approach, rather than a prohibition approach, not only from a cost standpoint but also from the standpoint that our experience is often that when you try to suppress one particular practice,

<sup>1</sup> See subsequent information, p. 241.

it surfaces somewhere else. We would rather channel it into an area where we can look at it and try to——

Senator BAYH. What would you recommend? What are you trying to do regarding this 30 percent of crime-related handguns?

Mr. MACDONALD. Our recommendation is that pawnshops pay an extremely high excise tax. That would drive a certain number of them out of the business. The remainder, we use the proceeds of that excise tax to investigate them. I would not say continuously, but frequently.

[Previous to publication, information of July 15, 1976, was supplied.]

**Department of the TREASURY**

**NEWS**

**BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
Washington, D.C. 20226

202/961-7268



Public Affairs Office  
New Firearms Records For Pawnbrokers  
July 15, 1976

FY-TQ-76-72

WASHINGTON -- The Bureau of Alcohol, Tobacco and Firearms has clarified its regulations concerning pawnbrokers' reporting and recordkeeping requirements for firearms.

A ruling published in the July issue of the "ATF Bulletin" states that a pawnbroker is not required to file a Firearms Transaction Record, Form 4473, when a firearm is pledged for a loan. However, he must record the receipt of the firearm in his permanent acquisition and disposition record.

When a firearm is redeemed by a person not holding a federal firearms license, the pawnbroker must file Form 4473.

This is because federal regulations require that the licensee file the form in all cases where disposition of a firearm is made to a nonlicensed person. A redemption is considered a disposition. Any disposition, including a redemption, must be entered in the pawnbroker's permanent acquisition and disposition record.

(more)



In addition, regulations require that every federally licensed firearms dealer, including pawnbrokers, report on the multiple sale or disposition of handguns.

A Report of Multiple Sale or Disposition of Pistols and Revolvers, Form 3310.4, must be filed with ATF whenever a pawnbroker sells or disposes of two or more handguns to an unlicensed person within any five consecutive business days.

##

Senator BAYH. If I might suggest, your reason for not being in favor of denying pawnshops the opportunity to sell firearms would also apply to using an excise tax. In other words, that those guns are going to go someplace else. Would it not?

Mr. MACDONALD. Maybe, but maybe not.

This is a very difficult problem to try to cover all of the holes at once and prevent the traffic from going in the wrong direction, that is, into a criminal population.

Our philosophy is, I think, that if we can regulate it more closely, more accurately, we will in effect stop a lot of the abuse.

Senator BAYH. How do you do that, by your suggestion?

Mr. MACDONALD. We do that by increasing the excise tax on pawnshops and investigating them much more often.

Senator BAYH. And the excise tax does what?

Mr. MACDONALD. The excise tax is an annual tax paid by a dealer.

Senator BAYH. A pawnshop dealer who deals in firearms must pay an excise tax currently.

Mr. MACDONALD. Right.

Senator BAYH. Unless that forces him not to sell, which is what I am suggesting might be the way we could go. I do not know what the political consequences would be if the pawnbrokers of America march on Washington. How does the tax limit access to the 30 percent of crime firearms sold through pawnshops?

Mr. MACDONALD. We would rather have them closely watched and have that traffic, which we have been so successful in tracing, rather than say you just cannot deal with it and then watch it get spread all over the United States into various dealers, where we do not really know where it is.

I think that is the theory.

Senator BAYH. Well, let us look at it together. I am sure you cannot cover every loophole. However, if one is a 30-percent loophole, that requires a pretty good patch, it deserves a significant amount of your attention and ours.<sup>1</sup>

As I understand it, you are proposing a new factoring criteria.

Mr. MACDONALD. Yes.

#### NEW FACTORING CRITERIA WITH WIDER RANGE

Mr. DAVIS. Yes, sir, that is correct. It is based on the 1968 Act, as well as your bill, with some modifications to include a wider range of factors.

Senator BAYH. How many weapons would be excluded under your factoring criteria that would be included in ours? The statistics that we were kicking around here indicated that we were talking about 1,700,000 weapons—if we included parts, prohibition of parts and importation of weapons. You are proposing the application of these factoring criteria to weapons that are made in this country as well, right?

Mr. DAVIS. Yes.

Senator BAYH. What is the difference as far as the number of weapons involved?

Mr. DAVIS. Mr. Chairman, if I can. I would like to call upon our firearms expert, who we have in the room. His name is Mr. Ed Owen. He is employed by the Bureau of Alcohol, Tobacco and Firearms as a firearms expert. He is quite familiar with the factoring criteria, both the old and the new proposed.

Senator BAYH. Mr. Owen?

Mr. MACDONALD. The chairman wants to know how many additional weapons would be covered by the new factoring criteria that are not covered by the existing factoring criteria used for the sporting purpose test. In other words, start with the assumption that you have the existing sporting purpose test applied domestically. That adds about 1 million weapons that are presently manufactured in the United States that would fall within that existing sporting purpose test.

Now, how many additional weapons would be included if the—

Senator BAYH. I think excluded is the question.

If we would apply our standards, yours and mine, the one that you applied to foreign handguns and that we would like to see applied to domestic handguns and parts, which you also want to cover. But I suppose that this new criteria of yours would also apply a different criteria for parts. But if we apply the present standard, which is now applied to foreign handguns, we are talking about limiting the market by 1,700,000 guns a year.

Mr. MACDONALD. About a million, Senator. The 700,000 is included in the million, or included in the 2 million domestically manufactured.

Senator BAYH. All right. It is only a million. That is a lot of handguns—1 million handguns. Now when you apply the new criteria, how many of those million handguns would be permitted in circulation?

<sup>1</sup> See subsequent information, p. 248.

Mr. OWEN. Weapons permitted in circulation, sir?

Senator BAYH. Yes. In other words, when you talk about changing the criteria to the standard that was proposed by Mr. Macdonald in his testimony, how many additional weapons are we letting into circulation?

Mr. OWEN. Under the new system there would be no additional weapons let into circulation that would have been excluded under the earlier system.

Senator BAYH. I thought you were changing the factoring criteria?

Mr. OWEN. Yes, sir. We have changed the factoring criteria.

#### FACTORING CRITERIA TO BE MORE RESTRICTIVE

Mr. MACDONALD. To make it more restrictive.

Senator BAYH. That is not the way I understood it.

Mr. MACDONALD. Oh, yes, sir. That was always the case. That is the way the testimony reads, I believe.

Senator BAYH. Well, I understood that according to your testimony, the factoring criteria that you were suggesting would be confined to handguns below a certain value. Did I misunderstand?

Mr. MACDONALD. Yes, sir. The factoring criteria that we are proposing are the same factoring criteria that we have been using for the sporting purpose test, with modifications.

Senator BAYH. It is the modifications I am concerned about.

Mr. MACDONALD. The modifications make the test much more restrictive.

Mr. OWEN. Yes, sir.

Senator BAYH. In what way?

Mr. OWEN. We felt that under the old system there were so many subjective areas where the manufacturer was not required to build any type quality into a firearm, to produce it as cheaply as possible, and in many cases weapons which we consider marginal and even bordering on being dangerous to the user.

Under our proposed system we have modified the factoring points to include areas which indicate a higher level of quality and safety in the manufacture of a firearm.

Senator BAYH. An example, please, Mr. Owen.

#### EXAMPLES OF MODIFYING FACTORS

Mr. OWEN. Yes, sir. In the case of a revolver, we have maintained the existing size restrictions. The construction of the frame, we have increased the point value given for steel and high tensile strength alloy frames. The weapon weight has remained the same. The caliber restrictions have remained the same.

In the case of revolvers we have added a safety feature; for a grip safety in a revolver, it would be credited with three points.

Other features which are entirely new in our factoring system would be a front supported or shrouded ejector rod. This is a feature that would be found on the barrel of a revolver to support the ejector rod.

We have also given credit, if the rifle portion of the barrel is threaded to or integral to the frame or top strap components. This

has been one of our biggest problems with the inexpensive handgun, where the barrel, instead of being threaded into the frame is merely press fitted through a hole in the frame, or held in with a simple crosspin. We have given point credit for a retracting firing pin, a steel recoil plate in the frame itself. This has been a problem to us in the zinc framed handgun, which is a very low quality alloy in weapons construction. A crane-mounted cylinder, or a rear latched top-rate design in the double action revolver has been credited with additional points. In the case of a single action revolver, a spring loaded ejector assembly and loading gate has been credited with additional points.

Senator BAYH. Okay. If you could give us a copy of that, we will review it carefully. You do not need to do it in detail now.

What I was concerned about is the philosophy that some people espouse that it is bad to be killed by a cheap Saturday Night Special, but it is perfectly okay to be killed by an expensive one. I was concerned about your change in factoring criteria. I mean, we are concerned basically about the size, and other factors that deal with concealability, accessibility, and adaptability for criminal purposes. The way you described that factoring criteria, you are not subscribing to that philosophy.

All right. I would like to have a chance to study that.

Gentlemen, I have no further questions. I imagine my distinguished colleague from Nebraska has. I apologize for keeping you all here this late.

It is a very important problem and I am sure you understand that.

Senator Hruska?

Senator HRUSKA. Your questioning has been good, Mr. Chairman. You robbed me of a lot of my potential questions, but you asked them better than I could have. Anyway, we will forgive you.

Mr. Secretary, is ammunition a hazardous substance?

Mr. MACDONALD. I would not want to venture a legal opinion on that issue under that particular law. Apparently the courts have said that there is jurisdiction in the Consumer Product Safety Commission to make a determination to that effect, and that Commission has now received written submissions, which I think up to April 15, and they have it in the bosom of the Commission to make a decision.

We over in the Treasury Department just have not paid too much attention to that.

Senator HRUSKA. In your opinion, from your study of the 1968 Act with the amendments, or in the opinion of your staff, was it the intent of Congress that ammunition be considered on its own and to the exclusion of a general classification in other legislation as a hazardous substance?

Mr. MACDONALD. I do not believe the legislation addressed itself to that at all.

Senator HRUSKA. It really would be whether or not the Hazardous Substance Act would have as its intent the express inclusion of ammunition. It would be the other way, would it not?

Mr. MACDONALD. Yes.

Senator HRUSKA (presiding). Let me ask you a question. As a matter of policy, would it be well to put it in that category, because



presumably the Congress can expressly say it is not in that category?

Mr. MACDONALD. I am not sure I can give an answer that is any good to that.

We in the Treasury Department, for cleanliness of jurisdiction, if you will, submitted our opinion of pending legislation that would take it out from the category of hazardous substances. Our opinion was that we supported that bill.

#### GUN CONTROL ACT SHOULD INCLUDE AMMUNITION

Senator HRUSKA. It should be treated, in other words, unless we want to abandon the use of guns altogether, it should be treated under the Gun Control Act.

Mr. MACDONALD. Yes, that is the way we felt.

Senator HRUSKA. I was a little amused when you were asked—and I say this with due respect and deference to the chairman—but you were asked how many, or what volume of imports were kept out by the law. I remember years ago going through Mammoth Cave in Kentucky, and the guide indicated that every year they found some new passages, new tunnels, new caverns, discovered them, explored them. One of the school teachers present, when she had a chance to ask a question said, “Mr. Guide, how many miles of undiscovered caves are there?” That is just about put in that same category. It would be difficult, would it not?

Mr. MACDONALD. Yes, it would.

Senator HRUSKA. Have you reviewed S. 1, the revision of title XVIII of our Federal Criminal Code, or has anyone in your Department?

Mr. MACDONALD. Our General Counsel’s office has, and I think our enforcement people have.

Well, I guess we have not. It is safe to say we have not.

Senator HRUSKA. There are two sections that are devoted to firearms control. As you may know, section 18.22 and section 18.23. If you would like to comment on them and give us any guidance you can in this regard, we would be pleased, because we are going to mark up that bill within the next few weeks, and any input would be very gratefully received.

General Counsel probably has done something on this. Senator McClellan and I are the sponsors of the bill, and we sent it to all of the departments that have enforcement and criminal jurisdiction.

Mr. MACDONALD. Yes, I know that it existed.

Senator HRUSKA. Could you make inquiry about that, and if there is some other aspect that you might be interested in in that bill, we would like to hear of it.

Mr. MACDONALD. We would be happy to submit that supplementally in writing.

#### MAIL ORDER SALES OF FIREARMS

Senator HRUSKA. What experience have you had since 1968 with regard to mail order sales of firearms?

Mr. DAVIS. Senator, the mail order sales of firearms have been virtually, if not altogether, eliminated.

Senator HRUSKA. They have been what?

Mr. DAVIS. They have been virtually, if not altogether eliminated.

Senator HRUSKA. Eliminated?

Mr. DAVIS. Yes, sir.

Senator HRUSKA. Do you keep a register?

Mr. DAVIS. Well, sir; any person who attempted to make a mail order purchase of a gun would be clearly in violation of the law. The dealer who would make such a sale would be clearly in violation of the law. We just have not found very many, if any, attempts to do that. The law, I think, has addressed itself very well to this particular problem.

Senator HRUSKA. But you say the mail order sales are eliminated?

Mr. DAVIS. Yes, sir. I am assuming here that it is between a private individual and a licensed dealer. Now, obviously dealers under the law itself have the right to send guns between themselves; but a private individual cannot purchase a gun through the mail from a dealer.

Senator HRUSKA. Not through the mail; but there are mail order sales in the sense that you write a letter, send it in the mail, and then it is delivered, not through the mail, but——

Mr. DAVIS. Sir, that would be limited to sales within a State. In other words, if you were a resident——

Senator HRUSKA. Or a contiguous State?

Mr. DAVIS. In the case of long guns; yes, sir.

Senator HRUSKA. It was in intrastate, or in a contiguous State?

#### INTERSTATE SALES LEGAL FOR LONG GUNS ONLY

Mr. DAVIS. Long guns only. Handguns could not be purchased in a contiguous State, no matter what.

Senator HRUSKA. How about the long guns. Is there still some business in that field for long guns within a State. You have jurisdiction over that, do you not?

Mr. DAVIS. Yes, sir. There is no question about it. We feel that in the case of long guns there are frequent sales in contiguous States, where people live close to the border line of a State, where a city is located just across the line of the State where the laws are applicable. There is a considerable amount of that kind of sale.

The intrastate dealing in firearms—I would assume there is some of it, although not a great deal.

Senator HRUSKA. How does it work in the instances where you do have it? Does it work satisfactorily?

Mr. DAVIS. Yes, sir; particularly in the contiguous State situation, where the individual purchaser goes to the dealer and the forms are filled out.

There are approximately 44 or 45 States that have passed contiguous State legislation which permits their residents to go into another State and make a purchase of a long gun.

Senator HRUSKA. Do you make a report on the volume? Have you gathered statistics on it?

Mr. DAVIS. No, sir. There is no requirement that this be forwarded to the Bureau.

Senator HRUSKA. What response is received from the chief of police and the sheriff, by the law enforcement officer who is

addressed in the premises? Do you get responses, or do they get responses?

Mr. DAVIS. Again, sir, you very accurately described when there is a non-over-the-counter sale, there is a provision in the law that the chief law enforcement officer of the locality where the purchaser resides is given a request, or given notice, a 7 day period, that this person intends to purchase a gun. Of course if there is no response, or a negative response, then the gun may be sold.

We have no statistics to show how frequently this procedure is followed, because again, there is no requirement that it be reported to the Bureau.

Senator HRUSKA. Do any of your proposals relate to title II—machine guns, bombs, dynamite, so on? Are there any amendments in order or desired, as far as you know?

Mr. MACDONALD. No, sir.

#### DEFINING USE OF THE WORD "CHEAP"

Senator HRUSKA. It has baffled me a little bit, and I know some of my colleges, in regard to "Saturday Night Specials" the use of the word "cheap". If it is \$7 or if it is \$100, does that make any difference in a gun barrel, a pistol, a revolver barrel 2½ inches long or less than 3 inches?

Do you get the point of my question?

Mr. MACDONALD. Yes, I do.

I suppose that the cheapness addresses itself to easy availability on a moment's notice, and to that category of purchaser who is buying in a passion to commit a crime. I think that has to be the theory behind cheapness.

Senator HRUSKA. Well, so often—like you do in your statement—eliminating the same light weight, easily concealable cheap handguns which have no legitimate sporting use—now what difference does it make? Besides, a lot of them are stolen, are they not?

Mr. MACDONALD. Yes, a lot of them are.

Now, the fact that we eliminate cheap handguns is not going to solve all of our problems.

Senator HRUSKA. Is cheapness usually used to indicate that it is a very inferior make, very inferior metal?

Mr. MACDONALD. Yes, sir.

Senator HRUSKA. Not sufficiently well engineered or built. Does it carry that kind of connotation?

Mr. MACDONALD. Yes, sir, I think it does.

Senator HRUSKA. Now as I understand it, by measuring these points that you build up on a given make of a gun, less than 3 inches long, you are able to disqualify it completely.

Mr. MACDONALD. Yes.

Senator HRUSKA. Am I correct?

Mr. MACDONALD. On the revolver.

Senator HRUSKA. So that the points that you have gained or are required to get are imposed over and above the requirement that the 3-inch limitation carries with it.

Mr. MACDONALD. Exactly, two separate tests, both of which have to be met.

## EFFECTIVE, ENFORCEABLE GUN CONTROL LEGISLATION

Senator HRUSKA. I want to observe, Mr. Secretary, that I am very pleased with your statement. It is well written and it is well documented, but over and above that, its general thrust is a reasoned approach to this difficult problem.

If you examine the statement that I inserted in the record at the beginning of the hearings and some of my other declarations on this subject, you will discover that it is my position, and the position of many who are called upon to sit in judgment on proposed legislation in this field, that we have many, many laws on gun control; many provisions not only in the Federal law but also in States and in municipalities. It would be well to direct our efforts to try to look them over, find out how they are working and how we can improve them for the purpose of keeping guns out of the hands of those that would misuse them; and also to punish quickly and adequately those who violate those laws.

Now, if we do that we will go far to reach an effectiveness in gun control legislation that will be politically acceptable, like you point out, and that will get popular support.

The idea that you express about the root causes is something we can not quite get over to the public, nor even to some of our colleagues. This is a symptom. This is something deeper than just the possession of a gun. If we could only get that entire picture in our heads, I think we would make greater progress in dealing with this subject. They are not all related to guns. Some have to do with the interworkings of a judge's mind, for example, and of a prosecutor's mind, and of a jury's mind, and in the public where they find again and again suspended sentences, or probation or parole, and the easy bonding and bail laws that we have.

Until those things are also taken into consideration, we are not going to have much success in this field in my judgment.

Mr. MACDONALD. I appreciate your complementing the statement. I can only say that we will do our best to enforce any law, of course, that Congress passes. But we would like to see a law, if there is to be a law, that would do some good and that is enforceable. Historically, if you look back over the waning days of the Weimar Republic or over Northern Ireland, you can not help but feel that political stability is one of the prerequisites to the control of violence.

Senator HRUSKA. We went into that, as Senator Hart observed, earlier this morning. I might say that while the Commission recommended certain gun control legislation, there was also a minority report.

Mr. MACDONALD. I am aware of that, sir.

Senator HRUSKA. I want to say and I am proud to say that the Special Prosecutor Leon Jaworski was one of the cosigners of that minority report. He knows something about the subject first hand, and he is a great authority in that field of criminal law, as well as penology and so on. I mention that parenthetically as another bit of perhaps more or less useful information.

Mr. Rector, have you any questions or any observations?

Mr. RECTOR. No, Senator, I have none.



Senator HRUSKA. Very well. Thank you all for coming. It has been a fruitful day for our record.

Mr. MACDONALD. Thank you, sir.

[Subsequent to the hearing the following information was supplied by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms.]

#### SUBSEQUENT INFORMATION

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS DIVISION INTERPRETATION  
OF "ENGAGING IN THE BUSINESS," 18 U.S.C. 922(a) (1)

DEPARTMENT OF THE TREASURY,  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS,  
Washington, D.C. April 16, 1973.

Mr. FRANK PETRANEK,  
*Petranek Gunsmithing,*  
*Kansassville, Wis.*

DEAR MR. PETRANEK: Your question as to whether the buying and selling of guns at gun shows by persons who are not licensed dealers is "O.K." depends on whether or not those persons are "engaged in the business" as a firearms dealer. If they are and do not have a license, they are subject to the penalties of the Gun Control Act.

The determination of who is and who is not a firearms dealer is one which is not subject to a singular, all encompassing ruling or definition by which everyone can be measured. It is our contention that each case must be considered on its own merits. We do feel that the individual is in the best position to know whether he is a firearms dealer, which the law defines as a person engaged in the business of selling firearms at wholesale or retail. While the word "profit" and the phrase "repeated sales" are not mentioned in the definition, there is little doubt that in any determination of a person's status as a dealer, we must consider (1) whether the sales of firearms by that person are made with profit as the principal objective; and (2) whether such sales are made on a repetitive basis. In other words, if an individual buys firearms, sells them at a profit and then replenishes his stock of firearms so that he may also sell them at a profit, he is functioning as a dealer and should be licensed.

If the selling and swapping of guns by the individual is limited to sales and trades for the sole purpose of improving his personal gun collection or his hunting and target weapons, he is not engaged in the business as a firearms dealer and is not entitled to be licensed. There is nothing in the law which prevents an unlicensed person from selling his personal firearms if, in the case of a sale to another unlicensed person, the purchaser is from the same State as the seller. We have long held that the occasional sale of a personally owned firearm by an unlicensed individual is not construed as being "engaged in the business."

Of course, licensed collectors at gun shows are permitted to buy firearms which have been designated as curios or relics from unlicensed persons, and sell curios or relics to other licensed collectors.

Residents of the State of Illinois are not permitted by the Gun Control Act of 1968 to purchase a handgun outside the State of their residence. They may purchase a longgun from a licensed dealer in one of the States adjoining Illinois if the transaction takes place at the dealer's premises. They could not lawfully buy a firearm at a gun show in Wisconsin unless the firearm is classified as an antique.

Sincerely yours,

REX D. DAVIS.

To: Director, Alcohol, Tobacco and Firearms Division.

From: Director, Alcohol, Tobacco and Firearms Legal Division

CC:ATF-12,562 T:JBP.

Subject: Letter of United States Attorney Whitney North Seymour, Jr., Southern District of New York, to Chief, Legislative and Legal Section, Office of the Deputy Attorney General, Department of Justice, recommending the amending of the Gun Control Act of 1968.

The referenced letter was attached to your memo routing slip, dated January 20, 1971, requesting the views of this office with respect to the recommended changes in the Gun Control Act of 1968. Mr. Seymour's recommendations were prompted by his office's unsuccessful prosecution of an individual under 18 U.S.C. 922(a)(1), who sold several firearms which were stolen and which contained no serial numbers without having a dealer's license.

Mr. Seymour suggests that the statutory wording "engaged in the business" be deleted from section 922(a)(1) at least insofar as dealers in firearms are concerned. Because of this statutory wording, the court in the aforesaid case instructed the jury that, in order to convict, the defendant must have held himself out in some regular or consistent manner as a dealer and that a single sale, or even a number of sales of firearms, is not sufficient for a finding that the accused was engaged in the business of a dealer. It is recommended by Mr. Seymour that the offense simply be one of "dealing in" firearms without the prescribed license, which term shall be defined as including making or offering to make, multiple sales or other transfers of firearms.

We do not believe that the proposed change would appreciably alter the elements to be proved under section 922(a)(1). In order to establish that an individual was "dealing in" firearms, evidence of his engaging in business would be required. The term "dealer" is defined in 18 U.S.C. 921(a)(11) as one "engaged in the business" of doing certain things with respect to firearms. We believe that to eliminate the wording "engage in the business" from both sections would be completely contrary to the licensing scheme established by Congress in Title I of the Act. The legislative history of the Act reveals that only through the control of persons "engaging in the business" of importing, manufacturing, and dealing in firearms could the regulation of firearms traffic be made possible. The Congress also found that licenses should only be issued to responsible law-abiding persons actually engaged in, or intending to engage in, business. Internal Revenue C.B. 1968-2, pages 823 and 825.

As you know, this office has previously opposed any effort to define the term "engage in the business," since the term is not susceptible to a precise definition and it is believed that any attempt to more clearly define it would unnecessarily narrow its scope. We believe that whether or not one is engaged in business should be determined on a case-by-case basis. The court in the recent case of *United States v. Gross*, 313 F. Supp. 1330 (S.D. Ind. 1970) found the term not constitutionally defective and stated at page 1333:

"... While it is true that 18 U.S.C. §921 requires no minimum number of sales, dollar volume of sales, or number of employees to constitute 'engaging in business', as defendant asserts, there should be no doubt in the minds of men of common intelligence that 'dealer' means one that is engaged in *any* business of selling, repairing or pawning firearms and that 'business' is that which occupies the time, attention, and labor of men for the purpose of livelihood or profit."

An earlier case, *Supreme Malt Products Company v. United States*, 153 F. 2d 5, 6 (1st Cir. 1964) held that the wording "to engage in the business" implies an element of continuity or habitual practice and is synonymous with carrying on business or doing business but requires more than the making of a single sale; however, the court stated that a single sale may constitute engaging in the business when accompanied by additional circumstances.

Thus, we would object to Mr. Seymour's suggestion that "dealing in" or "engaging in the business" should be defined to include making, or offering to make, multiple sales or other transfers of firearms. Such definition might exclude the case of a single firearms transaction when accompanied by other circumstances showing that a person is actually engaged in business. Furthermore, such definition would require the licensing of all persons, including collectors, who acquire or dispose of a number of firearms when they are otherwise not engaged in business. As previously noted, this is contrary to the intent of Congress.

This office simply does not know what chances of enactment the remaining recommendations would have. With respect to the recommendation that the transfer of firearms without serial numbers be made an offense, we point out that some degree of control already exists in this area. 18 U.S.C. 923 (i) provides that licensed importers and licensed manufacturers must identify by means of a serial number each firearm imported or manufactured. Furthermore, any person violating that section is subject to the penalties prescribed by 18 U.S.C. 924(a).

JOHN F. MCCARREN.

DEFINING THE TERM "TO ENGAGE IN THE BUSINESS" FOR PURPOSES OF 18 U.S.C.  
CHAPTER 44

The Alcohol, Tobacco and Firearms Division has previously opposed any effort to define the term "to engage in the business" since the term has not been considered susceptible to a precise definition and since any attempt to set forth a precise definition by statute or regulation may unnecessarily narrow its scope. In the absence of such definition, the determination whether one is engaged in business as a firearms importer, manufacturer, or dealer and, therefore, required to be Federally licensed under Chapter 44, is made on a case-by-case basis. The decisions of the courts construing the term for Chapter 44 purposes reflect a similar determination, and the courts have had no difficulty applying the term to the facts involved.

In *United States v. Gross*, 313 F. Supp. 1330 (S.D. Ind. 1970), affirmed 451 F. 2d 1335 (7th Cir. 1971), where the defendant was convicted of dealing in firearms without a license in violation of 18 U.S.C. §922(a)(1), the defendant contended that the statute is unconstitutionally vague since no definite standards were established such as number of sales and dollar volume of sales. The court found the term not constitutionally defective and stated at page 1333:

"... While it is true that 18 U.S.C. §921 requires no minimum number of sales, dollar volume of sales, or number of employees to constitute 'engaging in business', as defendant asserts, there should be no doubt in the minds of men of common intelligence that 'dealer' means one that is engaged in *any* business of selling, repairing, or pawning firearms and that 'business' is that which occupies the time, attention, and labor of men for the purpose of livelihood or profit."

Affirming the judgment of the District Court, the Court of Appeals for the Seventh Circuit reiterated this definition and cited in support thereof *Stone v. District of Columbia*, 198 F. 2d 601, 603 (D.C. Cir. 1952).

Where the evidence at trial showed defendant's sale or offer to sell six separate firearms, the court in *United States v. Zeidman*, 444 F. 2d 1051, 1055 (7th Cir. 1971), found sufficient evidence to support a conviction under section 922(a)(1). Significantly, the court noted the absence of any statutory standards for determining when a person is "engaged in the business."

The term "to engage in the business" and the absence of a precise definition of the term are not peculiar to Chapter 44. This undefined term appears in the National Firearms Act (26 U.S.C. Chapter 53), in the internal revenue laws regulating distilled spirits (26 U.S.C. Chapter 51), and in the Federal Alcohol Administration Act (27 U.S.C. Chapter 8). It also appeared in the Federal Firearms Act (15 U.S.C. §§901-909) which was replaced by the provisions of Chapter 44 and in the National Firearms Act prior to its amendment by Title II of the Gun Control Act of 1968 (Pub L. No. 90-618). In *Kaneshiro v. United States*, 445 F. 2d 1266 (9th Cir. 1971), a prosecution for engaging in the business of selling firearms without a license in violation of the Federal Firearms Act, the court, finding from the facts that the defendants were "engaged in the business," said:

"Next, appellants contend that there was no evidence, outside of the single shipment of guns to Tokyo, from which the jury could reasonably have inferred that either of them was a dealer. An isolated transaction, while not in itself a business, is, nevertheless, evidence to be considered in determining whether the seller is engaged in a business. *Bush v. United States*, 218 F. 2d 223 (10th Cir. 1954); *Supreme Malt Products Co. v. United States*, 153 F. 2d 5 (1st Cir. 1946) ... the fact that the guns were sold in two separate installments to two different people, is ample evidence to support a finding that appellants were 'engaged in the business of selling firearms' and were to that extent dealers under §901 (5)."



The National Firearms Act (both prior and subsequent to its amendment) defines the term "dealer" to include any person not a manufacturer or importer, engaged in the business of selling firearms and places upon him special tax liability. Although not otherwise defined by law or regulation, the Service has held for many years that the term "engaged in the business" for purposes of the Act denotes repeated commercial (wholesale or retail) sales of firearms with profit as the principle objective. This position is grounded on the principle that a single sale, unattended by circumstances showing the one making the sale to be engaged in the business, does not create special tax liability (see Rev. Rule. 59-77, 1959-1, C.B. 543-544).

For many years, the internal revenue liquor laws have prescribed a special tax for those carrying on a business in liquors, and the term "carry on the business," synonymous with "engaging in business," has never been specifically defined. However, as early as 1898, the Supreme Court held that an indictment worded in the language of the statute and changing the carrying on the business of a retail liquor dealer without payment of the special tax, without specifying the manner in which business was conducted, defined an offense with the requisite precision. *Ledbetter v. United States*, 170 U.S. 606 (1898). With respect to proof of the offense, the Court stated that a single sale of liquor might be sufficient evidence of the unlawful carrying on of business unless the sale was exceptional, accidental, or made under circumstances as to indicate that it was not in the business of a vendor. Other cases under the liquor laws have stated that the business need not be the sole business or occupation or even one of comparative importance as related to the person's other business or occupation. Thus, a single sale of liquor accompanied by circumstances which indicate that a person is engaged in the business has been held sufficient to create special tax liability. See *Supreme Malt Product Co. v. United States*, 153 F. 2d 5 (1st Cir. 1964); *Heath v. United States*, 169 F. 2d 1007 (10th Cir. 1954); and *United States v. Raymond*, 436 F. 2d 951 (7th Cir. 1971), *cert. denied*, 402 U.S. 907 (1971).

Thus, any effort to define the term to include the making or offering to make multiple sales or other dispositions of firearms might exclude the case of a single firearms transaction when accompanied by other circumstances showing that a person is actually engaged in business. Furthermore, such definition may require the licensing of persons, including collectors, who dispose of the minimum number of firearms when they are not engaged in a bona fide business. Of course, the Congress when enacting the provisions of Chapter 44 intended that licenses should be issued only to responsible law-abiding persons actually engaged in, or intending to engage in, business (see S. Rept. No. 1501, 90th Cong., 2d Sess. 22, 25 (1968)).

While it would not appear feasible to adopt a precise definition of the term "to engage in the business," it may be appropriate to adopt guidelines for the benefit of the public and ATF personnel to assist in a determination whether a person is or is not engaged in a business required to be licensed. Rather than adopting a specific definition of the term, inclusion of examples of what constitutes engaging in the business and what does not constitute engaging in the business, in an industry circular and manual supplement would seem appropriate.





# INDUSTRY CIRCULAR

**DEPARTMENT OF  
THE TREASURY**

**Bureau of Alcohol, Tobacco and Firearms  
Washington, D.C. 20226**

Number 75-8

Date April 29, 1975

## MULTIPLE SALES OF PISTOLS AND REVOLVERS

Federal firearms licensees,  
and others concerned:

**PURPOSE.** The purpose of this circular is to inform you of the specific provisions of revised regulations that require a Federal firearms licensee to make a report of a multiple sale or other disposition of pistols and revolvers.

**GENERAL.** The Commerce in Firearms and Ammunition regulations (27 CFR Part 178) have been revised effective July 1, 1975. The key amendment, restated below, requires a firearms licensee to report the sale or other disposition of two or more pistols or revolvers at one time or during any five consecutive business days to an unlicensed person. Since the reporting requirement does not apply to all firearms but rather only to pistols and revolvers, a precise definition of the terms "pistol" and "revolver" is being prescribed. Also, in order to correct a previous error, the definition of the term "discharged under dishonorable conditions" is being revised to delete the phrase "Bad Conduct Discharge." The Commerce in Firearms and Ammunition regulations were recodified from 26 CFR Part 178 into 27 CFR Part 178 on April 15, 1975.

### RESTATEMENT OF REGULATION CHANGES.

1. Section 178.11 is amended by revising the definition of the term "discharged under dishonorable conditions" and by adding, in alphabetical order, a definition of the terms "pistol" and "revolver" to read as follows:

#### § 178.11 Meaning of terms.

\* \* \* \* \*

**Discharged under dishonorable conditions.** Separation from the U.S. Armed Forces resulting from a Dishonorable Discharge.

\* \* \* \* \*

**Pistol.** A weapon originally designed, made, and intended to fire a small projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a stock designed to

be gripped by one hand and at an angle to and extending below the line of the bore(s).

\* \* \* \* \*

Revolver. A small projectile weapon, of the pistol type, having a breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

\* \* \* \* \*

2. A new § 178.126a is added immediately following § 178.126 to prescribe reports of multiple sales of pistols and revolvers. The added provision reads as follows:

§ 178.126a Reporting multiple sales or other disposition of pistols and revolvers.

Each licensee shall prepare a report of multiple sales or other disposition whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols or revolvers, or any combination of pistols and revolvers totalling two or more, to an unlicensed person. The report shall be prepared on Form 3310.4, Report of Multiple Sale or Other Disposition of Pistols and Revolvers, and forwarded to the office specified thereon not later than the close of business on the day that the multiple sale or other disposition occurs.

Example 1. A licensee sells a pistol and a revolver in a single transaction to an unlicensed person. This is a multiple sale and must be reported not later than the close of business on the date of the transaction.

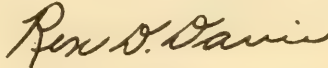
Example 2. A licensee sells a pistol on Monday and sells a revolver on the following Friday to the same unlicensed person. This is a multiple sale and must be reported not later than the close of business on Friday. If the licensee sells the same unlicensed person another pistol or revolver on the following Monday, this would constitute an additional multiple sale and must also be reported.

Example 3. A licensee maintaining business hours on Monday through Saturday sells a revolver to an unlicensed person on Monday and sells another revolver to the same person on the following Saturday. This does not constitute a multiple sale and need not be reported since the sales did not occur during five consecutive business days.

FORMS. Forms are available from:

Bureau of Alcohol, Tobacco and Firearms  
ATF Distribution Center  
3800 S. Four Mile Run Drive  
Arlington, VA 22206

INQUIRIES. Inquiries regarding this circular should refer to its number and be addressed to the office of your Regional Director.

A handwritten signature in dark ink, reading "Rex D. Davis". The signature is written in a cursive style with a large, stylized "R" and "D".

REX D. DAVIS  
Director

Department of the **TREASURY**

**NEWS**

**BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
Washington, D.C. 20226

202/961-7268



ATF PUBLIC AFFAIRS  
ATF 1975 Year-End Summary  
Release for AMS of Dec. 30, 1975

FY-76-28

WASHINGTON -- More than 3,500 arrests or 80 per cent of the 4,500 arrests made in 1975 by the Bureau of Alcohol, Tobacco and Firearms were for gun violations, Director Rex D. Davis reported today in a year-end summary.

The ATF director said the percentage represents an increasing concentration of effort by Bureau special agents against firearms violators. Those arrested included about 450 armed and dangerous "significant criminals" as part of a special program by ATF to help state and local police apprehend known criminals through the use of federal firearms laws.

Violations investigated by the Bureau included gun crimes, criminal bombings, moonshining and illicit gambling.

In 1975, ATF special agents seized more than 8,000 illegal firearms, including more than 1,500 submachineguns, sawed-off shotguns and other gangster type weapons.

Davis, in his year-end review of the Treasury Department agency's accomplishments, noted that ATF:

--Introduced a bomb tracing method aimed at reducing the more than 400 explosive bombings investigated by the Bureau in the past 12 months.



--Endorsed a changeover from standard to metric bottles for the liquor and wine industries.

--Collected more than \$8 bil. in alcohol and tobacco taxes.

--Continued to make significant inroads in illicit moonshine operations.

Davis outlined other 1975 initiatives by the multi-mission Bureau to curb armed crimes and violence. During 1975, Davis said, ATF has:

--Prepared to increase the force of ATF special agents fighting urban gun crimes in response to a presidential directive.

--Declared penguins which can be easily converted to fire bullets to be subject to federal firearms laws.

--Required that multiple sales of handguns, many of which fall into criminal hands, be reported to ATF.

Launched a national Firearms Security public service program to stem more than 100,000 known firearms thefts per year.

--Concluded its Project Identification study of more than 10,000 crime guns seized by police in 16 major U. S. cities.

Project I indicated that guns used by criminals in street crimes are usually short-barreled, and easily concealed. About seven out of every <sup>10</sup> Project I guns had a barrel length of three inches or less. Also noteworthy was the fact that about one out of every 18 crime guns studied was stolen.

Findings from Project I contributed to anti-crime legislation proposed by President Ford on June 19, and to other crime control legislation now being drafted by Congress.

Firearms crimes investigated by ATF continued to rise, from 3,826 in 1974 to almost 4,000 this year. Typical was an investigation which led to the April arrest of 20 felons in Greenville, S.C., Jacksonville, Fla., and Hartford, Conn., on federal firearms charges. Firearms violations were highest in California, with more than 260, and in Texas, with more than 250.

Explosives cases investigated by ATF jumped about 20 per cent, from 131 a year ago to about 160 in 1975. One of the year's most notable cases culminated during the summer when seven men were sentenced to a total of 84 years in prison for bombing the home of a McLean, Va. contractor.

While gun and explosives crimes increased, alcohol violations declined. The seizure of moonshine distilleries dropped below the 1,000 mark for the second straight year, from 958 in 1974 to about 550 this year.

Individual still seizures went from 1,373 a year ago to just over 700 in 1975, the lowest total since 1956, when ATF agents destroyed about 15,000 stills. Illicit production was heaviest in Georgia, where more than 180 stills were seized during 1975. Moonshine activity remains concentrated in the seven Southeastern states.

"Unfortunately the use of bombs as instruments of terror and destruction is not concentrated in one geographic area," the ATF director noted in his year-end statement.

When final 1975 figures are tallied, the Bureau will have investigated more than 500 criminal bombings in at least 36 states, the District of Columbia and Puerto Rico.

This projected increase tops 1974, when 471 bombings were investigated. Bombings occurred with greatest frequency in California, where ATF agents investigated more than 60 explosions. A July explosion partially destroyed the Bureau's West Coast San Francisco headquarters doing a quarter of a million dollars in damage.

To combat bombs and bombers, research progressed in 1975 on a method to allow detection devices to sense a "tracing agent" placed in explosives during manufacture. Investigators would be able to locate a bomb before detonation or to trace explosives after detonation. Davis said the explosives tagging method holds considerable promise.

American wines in metric bottles made their appearance in 1975, following ATF approval. Beginning in 1979, all wines imported or manufactured in the U.S. will be marketed in seven standard metric sizes.

In July, ATF also proposed that distilled spirits be bottled in six standard metric sizes by 1979. Davis said adoption of metric standards will aid consumers in comparing products and simplify purchases.

In November, the Bureau withdrew a proposal to require a label listing of ingredients on beverage alcohol, citing questions of cost, consumer confusion, and possible bad effect on U.S. trade abroad. At the same time the Food and Drug Administration, under laws it enforces, said it would require alcohol beverage ingredient labeling by 1977.

ATF began a study this year of "joint custody" of distilled spirits plants by Bureau inspectors and plant managers. Davis said the purpose of the study is to determine whether federal liquor taxes can be collected "through voluntary compliance which has proven successful in the wine and beer industries." It's possible, he noted, that changes in the system could save tax dollars while freeing ATF manpower to investigate gun and bomb crimes.

ATF special agents and inspectors serve in all 50 states, the District of Columbia and Puerto Rico. The \$8 bil. in alcohol and tobacco taxes collected by ATF is the second largest source of tax revenue to the U.S. following personal and corporate income taxes.

Bureau regulation extends to 387 tobacco producers and warehousemen, 121 breweries, 292 distilled spirits plants, 597 wineries, 12,710 alcohol wholesalers and importers, and 422,281 liquor and beer retailers.

Also under ATF regulation are 160,000 firearms dealers, more than 6,700 ammunition makers, and about 780 firearms manufacturers and importers. Licenses and permits for explosives, which includes users, dealers and manufacturers, total more than 5,000.

Managing these vast responsibilities in industry regulation and criminal enforcement is a nationwide force of only 4,000 ATF employees, including 1,600 special agents and 700 inspectors.

The newest ATF mission, which dates from December of 1974, is to enforce the federal wagering law requiring commercial gamblers to buy a special \$500 tax stamp and pay a two per cent excise tax on bets they book.

In 1975, agents acted on more than 350 searches for illegal gambling activity, seizing about 100 automobiles and more than \$234,000 in cash and securities.

####



State	Firearms Seized by ATF Agents		Firearms Arrests by ATF Agents	
	1974	1975	1974	1975
Alabama	114	175	152	215
Alaska	57	13	5	16
Arizona	62	57	25	44
Arkansas	105	53	55	38
California	611	529	174	230
Colorado	6	293	16	7
Connecticut	11	80	38	52
Delaware	0	7	3	10
District of Columbia	9	12	33	90
Florida	30	137	88	113
Georgia	3754	139	262	196
Hawaii	5	11	11	10
Idaho	3	19	5	34
Illinois	56	35	117	95
Indiana	85	69	92	74
Iowa	78	7	7	7
Kansas	4	45	19	23
Kentucky	445	161	200	140
Louisiana	31	65	98	119
Maine	1	53	15	18
Maryland	174	241	60	54
Massachusetts	26	15	65	86
Michigan	1825	216	150	146
Minnesota	42	19	51	41
Mississippi	41	93	39	68
Missouri	65	49	60	79
Montana	0	0	4	5
Nebraska	5	153	9	14
Nevada	7	9	8	8
New Hampshire	0	0	3	4
New Jersey	14	147	23	37
New Mexico	6	45	8	12
New York	510	571	222	263
North Carolina	441	545	205	130
North Dakota	1	0	1	7
Ohio	263	320	55	31
Oklahoma	69	267	46	32
Oregon	6	33	26	16
Pennsylvania	44	201	103	140
Rhode Island	0	4	8	17
South Carolina	142	80	180	166
South Dakota	1	1	6	2
Tennessee	206	1561	49	58
Texas	678	1152	307	245
Utah	3	11	2	4
Vermont	12	4	15	4
Virginia	41	327	239	244
Washington	19	15	47	35
West Virginia	178	28	40	54
Wisconsin	53	67	45	8
Wyoming	2	4	4	7
*U.S. TOTAL	10341	8138	3495	3548

\*Firearms arrests projected for Nov. and Dec., 1975. Firearms seized projected for last three months of 1975. Both estimates are conservative. Final 1975 figures for firearms seized could exceed 1974 total. An investigation may lead to a cache of 10...or 2,000 weapons (as in one 1974 seizure).



OFFICE OF  
THE DIRECTOR

DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, D.C. 20226

JUN 3 1975

The Honorable  
Birch Bayh  
United States Senate  
Washington, D. C. 20510

Dear Senator Bayh:

As requested by your Subcommittee on Juvenile Delinquency during Treasury's recent testimony on firearms legislation, we are enclosing the following materials:

1. An explanation of the "firearms board" which we displayed during the hearing, with an attached photograph of the board.
2. A position paper on the authority to have licensed dealers submit the Forms 4473, Firearms Transaction Record, to ATF.
3. A position paper on the sale of guns by unlicensed individuals.
4. A position paper and/or estimate of the requirements to have all "proposed" sales of handguns channeled into ATF for a record check prior to the actual disposition of the gun.
5. A corrected chart, with explanation, of the prosecutions under the present Federal firearms laws.
6. An estimate of the number of firearms stolen in the United States each year.

The Subcommittee also requested the following material, which we are preparing at the present time:

1. A request for ATF's budget figures on what the Bureau needs to fully implement the Gun Control Act of 1968.

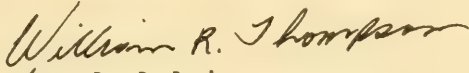
- 2 -

The Honorable  
Birch Bayh

2. An assessment as to what extent the theft of firearms plays in the commission of separate felonies.
3. The results of our efforts to determine how the firearm moved from the first retail sale to the scene of the crime in a 300 gun sampling from our Project Identification in New York City.
4. An assessment of the "pawn shop" problem.
5. The effect of S.1 on gun legislation.

As soon as this information is complete, we will forward it to you.

Sincerely yours,

  
for Rex D. Davis  
Director

Enclosures

This display is designed to illustrate the effect that the Gun Control Act of 1968 has had on the importation of foreign-made handguns.

The white portion of the board indicates some of the various types of European handguns which were imported into the United States prior to the passage of the Act. The red stripe in the center represents the beginning of the import provisions of the Act, and the blue portion of the board shows not only foreign guns now being imported but some models being produced by United States manufacturers today.

The importation of the German .22 caliber revolver, shown in the upper left corner of the board, was halted by the passage of the Act. This gun retailed in the United States for less than \$20.00.

The third gun on the white portion of the board, the Spanish .25 caliber automatic, which retailed for under \$35.00, was also denied importation by the Act. However, parts of this gun were not denied importation under the Act with the result that United States manufacturers made "frames" - which are defined by the Act as firearms and could not be imported - and matched them up to imported parts to produce the U.S./Spanish .25 caliber automatic. This gun now sells in the United States for approximately \$65.00.

The Gun Control Act of 1968 also prohibited the importation of all surplus military handguns, and this is displayed on the board by the "second" gun on the left which is identified as "surplus military handguns". Firearms of this type, which retailed from under \$20.00



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to several hundred dollars, are not imported into the United States.

The next category of firearm is the high quality German .380 ACP caliber semi-automatic pistol which was denied importation by the Gun Control Act because of its size. This gun at that time retailed for approximately \$125.00. After ATF established its factoring criteria for handgun importation, the factory in Germany modified the pistol by increasing the size of the frame to meet the minimum standards of a 10 inch overall length and height. This gun is now imported in its modified condition, selling for approximately \$200.00.

The Belgian 9mm semi-automatic pistol shown on the board is a high quality product which met the import criteria and has been imported into the United States. The current retail price of this pistol is \$254.00.

The final imported firearm is the .38 caliber German revolver which meets the import factoring criteria but is modified after its importation by shortening the barrel and changing the pistol grips to create a smaller handgun. This revolver, in its modified condition, does not meet the import criteria and is a clear example of the intent to by-pass the intent of the Gun Control Act of 1968. However, there is nothing in the Act of prevent this type of modification once the gun has been imported.

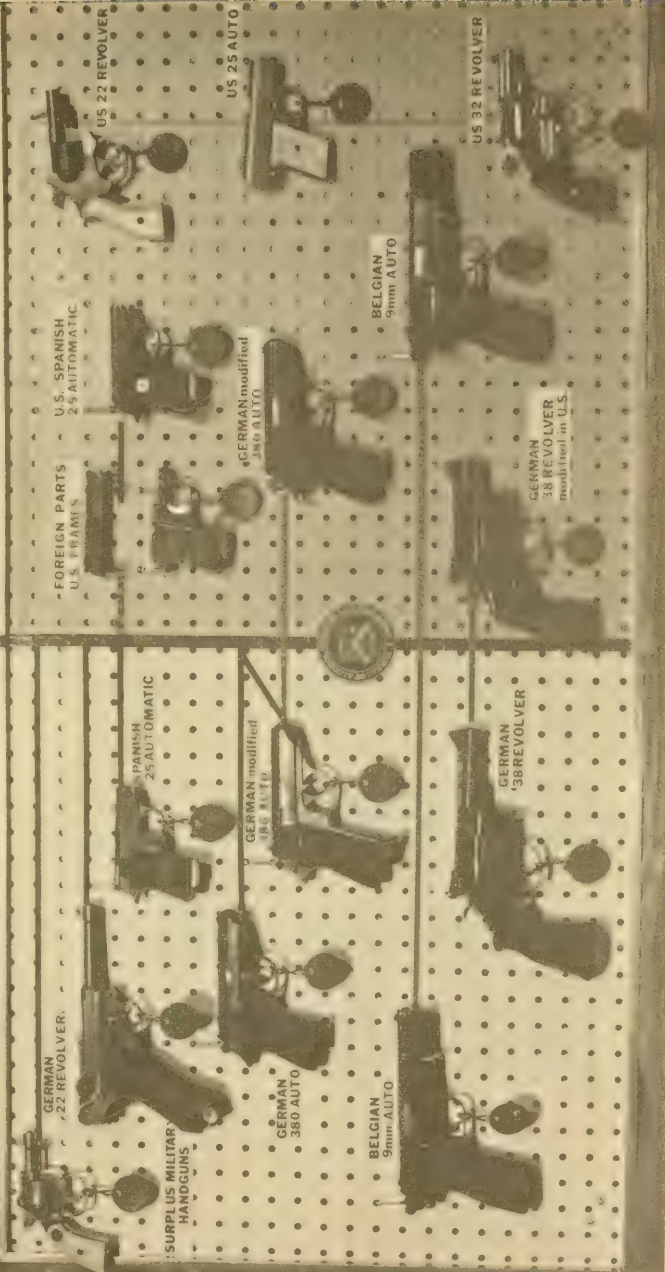
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On the far right side of the board, there are three small handguns connected by a "yellow" line. These handguns are not imported, but are poor quality American manufactured firearms which have come into being largely as the result of the void created in the market by the prohibited importation of the small, inferior-quality foreign handguns. The .22 caliber revolver retails for less than \$20.00, while the .25 ACP caliber semi-automatic and the .32 caliber revolver retail for less than \$50.00.

PRE GCA

GCA  
1968

POST GCA



Statutory Authority to Strengthen the  
Recordkeeping and Reporting Provisions of Title I  
of the Gun Control Act by Regulation

The Secretary is vested with the statutory authority under 18 U.S.C. § 926 to prescribe such rules and regulations "as he deems reasonably necessary" to carry out the provisions of 18 U.S.C. chapter 44. As a general principle of administrative law, any rule or regulation prescribed by the Secretary which is reasonably necessary to implement a statutory provision and is rationally related to a legitimate Congressional purpose will enjoy a presumption of validity. Therefore, in assessing the statutory authority to promulgate any proposed regulation, it is necessary to gauge such regulation against the specific terms of the statute itself and the Congressional purposes underlying the enactment of the statute.

As articulated in section 101 of Public Law No. 90-618, the main Congressional purpose in enacting Title I of the Gun Control Act was to:

"... provide support to Federal, State, and local law enforcement officials in their fight against crime and violence."

However, this same section also contains a number of negatively-phrased legislative purposes which must be read as qualifying the Secretary's authority to prescribe rules and regulations. Thus, in section 101 Congress expressly disavowed any intent to:

- 1) Place an undue burden on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to various enumerated sporting purposes, self-protection or other lawful activities;
- 2) discourage or eliminate the private ownership or use of firearms by law-abiding citizens; or
- 3) impose regulations other than those reasonably necessary to implement and effectuate the provisions of Title I.



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Despite these negative mandates, the restrictions imposed are general in nature and do not constitute a prohibition against strengthening the Act by regulation. In fact, in the area of licensee reporting and record-keeping, the Secretary is afforded a high degree of regulatory flexibility.

In this regard, 18 U.S.C. § 923(g) provides that:

Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms and ammunition at such place, for such period, and in such form as the Secretary may by regulations prescribe. Such importers, manufacturers, dealers, and collectors shall make such records available for inspection at all reasonable times, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. ...

Accordingly, section 923(g) would support a wide range of reporting requirements embracing such possible provisions as the mandatory and systematic reporting of production figures by manufacturers and the reporting of firearms distribution data by licensed importers, manufacturers, and wholesalers. The information reported could include the identity and geographic location of wholesale and retail licensees to whom distributions of firearms are made. This would give the Bureau a geographic profile of the Nation's firearms traffic and would permit a more effective assignment of enforcement and inspection priorities. On the retail level, regulations could require that licensees report multiple handgun sales or, if desired, all handgun sales to non-licensees.

Another possible target area for remedial regulation involves the reporting of stolen firearms. Under existing regulations, a licensee is not required to report firearms thefts. However, since the theft of a firearm results in a "disposition" of such firearm, thefts must presently be recorded in the dealer's records. Accordingly, the Secretary is empowered by

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section 923(g) to require that information contained in such records relative to the theft of firearms be reported to the Bureau.

In the event firearms are stolen in transit, section 923(g) would also provide a statutory basis for imposing a theft-reporting requirement upon the shipping licensee. In this regard section 923(g) specifically refers to the "shipment" of firearms and grants the Secretary authority to prescribe reporting and recordkeeping requirements relative to such shipments. In order to prevent a "gap" in the proposed reporting requirement, a regulation could be structured in such a fashion as to place the reporting obligation upon the shipping licensee until such time as the transferee actually takes possession of the shipment. At such point, the reporting obligation would shift to the recipient licensee in the event of subsequent theft.

Existing reporting and recordkeeping requirements could be further strengthened by amending the present regulations to provide that whenever a firearms business is succeeded to by a new licensee, the required records maintained by the prior licensee shall be delivered to the Regional Director for review and subsequently passed on to the new licensee. In contrast, the regulations presently require that dealer records be transferred directly to the new licensee when a succession in licensees occurs, and only when a business is completely terminated are such records forwarded to the Bureau. This procedure has frequently resulted in the disappearance of acquisition and disposition records attended by a contention on the part of the new licensee that the missing records were never transferred by his predecessor. The suggested regulatory amendment would, of course, provide ATF with an opportunity to examine the records and make an inventory of the firearms stock transferred for the purpose of determining the accuracy of the records.

With regard to the implementation of the reporting and recordkeeping requirements discussed above, consideration should be given to the fact that in enacting the Gun Control Act Congress evaluated and specifically rejected a proposal to establish a central

- 4 -

registry of firearms owners. Although nothing in the statute would directly prohibit either the centralization or computerization of information submitted by licensees, the centralization of Forms 4473 (in the case of multiple handgun sales, for example) would establish a form of "de facto" registration as rejected by Congress.

As an alternative to the submission of completed Forms 4473, identifying firearms transferees, a limited form of reporting could be established which would focus upon the particular firearm, rather than the purchaser involved in a monitored transaction. This could be achieved by means of a perforated addendum to the existing Forms 4473 which would identify the firearm and licensed dealer involved in a particular transaction but would not identify the purchaser. This addendum could be detached by the dealer and forwarded to the Bureau as required by regulation. This procedure would facilitate the tracing of firearms used in crime but would not be tantamount to firearms registration.

A synopsis of possible statutory amendments to the Gun Control Act which would strengthen existing provisions with respect to non-licensee transactions

As the Gun Control Act is presently structured there are only minimal controls imposed upon the intrastate transfer of non-Title II firearms between non-licensees. Consequently, a large body of firearms transactions occur each day which are completely beyond the scope of Federal law. The effect of this "loophole" in existing law is basically twofold in nature. Firstly, felons and other proscribed categories of persons have been able to effectively circumvent the Act by obtaining firearms from non-licensees who are not prohibited from making the very sales or other dispositions of firearms that would be illegal for a licensed dealer to make under the provisions of the Act. Secondly, the "gap" in reporting and recordkeeping data resulting from this extensive body of unregulated firearms traffic has frequently frustrated the Bureau's attempt to trace firearms used in crime.

While experience has shown that the absence of controls upon the secondary disposition of rifles and shotguns has had no significant adverse impact, a different situation exists in the case of handguns. Accordingly, in order to close these loopholes, and generally to tighten restrictions upon the secondary disposition of handguns by non-licensees, a number of statutory alternatives merit consideration.

Perhaps the most direct and effective approach to the problem would be to amend the Act to require that all sales or other dispositions of handguns by non-licensees be made through Federal licensees. The channeling of all handgun sales through licensees would facilitate the tracing of firearms and would activate the prohibitions against sales to proscribed persons.

A second means of accomplishing the stated objectives would involve the establishment of a transactional registry system generally similar to the one that currently exists under the National Firearms Act. Under such a system any non-licensee desirous of transferring a handgun to another non-licensee would be required to disclose the identity and residence of the intended purchaser and obtain the Bureau's approval prior to effecting the sale. Approval would be based upon a determination that the intended purchaser is not in a proscribed category and that receipt of the firearm would not place the purchaser in violation of law.



- 2 -

Another approach to regulating the acquisition of handguns by non-licensees would be the establishment of a permit or licensing system pursuant to which a Federal permit would be required for a non-licensee to purchase or otherwise obtain a handgun. Such permit would authorize a handgun acquisition by a non-licensee in any state. Criteria could be established for evaluating permit applications which would incorporate existing prerequisites for the purchase of a firearm from a licensee as well as additional factors such as the successful completion of an approved handgun safety course or a finding by the Secretary that receipt of the handgun would not place the purchaser in violation of state law. A principal advantage of the permit system would be the fact that Bureau personnel could evaluate the veracity of the information submitted by the applicant prior to his obtaining a handgun. Under existing law, when firearms are acquired from a licensee the Bureau must detect falsifications of the transaction record on a random or periodic inspection basis subsequent to the firearm disposition.

As an alternative to the above proposals, the existing statute could be amended so as to make it unlawful for a non-licensee to sell or otherwise dispose of a firearm to a person in a proscribed category. This would place licensee and non-licensee transactions on a more equal footing. Additionally, for monitoring purposes, some form of transactional reporting by non-licensees would be desirable. Submission of a special form similar to Form 4473 could be required for this purpose.

Firearms  
Purchaser Check  
. involving  
a  
Waiting Period

Section 1 - Pre-Sale Check  
Section 2 - Post-Sale Check  
Section 3 - ADP Support

Prepared by:  
Office of Technical and Scientific Services  
April 28, 1975

Section 1

Problem areas to be encountered with the enactment of Federal waiting period prior to delivery of a handgun.

The problems considered below will not include those inherent in the establishment of the ADP systems necessary to accomplish the proposed pre-purchase investigation.

It must be assumed that a vehicle similar to the existing ATF Form 4473, Firearms Transaction Record, would be utilized to provide the information needed to verify that an applicant is qualified to purchase a firearm. If the present Form 4473 is utilized, all of the information contained in Section A of the form would have to be put into the computers. This would require a message containing 16 separate items concerning only the prospective buyer.

The greatest problem area in a pre-purchase investigation would be verifying the information contained in Section A, Part 8 of the 4473. Only sub-parts b, c, and f could be rapidly verified. Sub-part a, concerning indictment for a crime punishable by imprisonment for a term exceeding one year could probably not be checked at the State of present residence, and there would be no way of checking for indictments in other States.

Sub-part d, concerning the unlawful use or addiction to marijuana, or a depressant, stimulant or narcotic drug would be virtually impossible to verify unless the applicant had a prior conviction record for use of the above drugs.

Sub-part e, concerning adjudication as a mental defective could only be verified if each State maintained a central file of all persons adjudicated as mental defectives.

Sub-part g, concerning an illegal alien would be impossible to verify by computer.

Sub-part h, concerning renouncement of citizenship would also be virtually impossible to verify.

While the above cites the major problem areas of this system, there are other instances which would make this system impractical.

A computer could not determine cases where false or stolen identification had been used to provide descriptive and residence information.

-2-

The actual submission of requests could also pose problems. A dealer in high density areas could very possibly submit in excess of 100 requests per day. This volume would cause a great hardship on the dealer in time and manpower required to prepare and transmit requests.

In very remote areas the transmission of requests and the receipt of responses would be very difficult unless all requests were submitted telephonically.

ATF would also have to enter a listing of all convicted felons who have been granted relief from disability into the computer system. Since all felons must answer yes to question 8b of Form 4473, the computer would have to identify those felons who have been granted relief.

Using a modern ADP system subject to the weaknesses noted, the pre-sale check could be normally accomplished in 4 or 5 days.



Section 2

Problem areas to be encountered with the enactment of a Federal Check of firearm purchasers subsequent to delivery of a firearm.

Those problems listed for the pre-purchase system would also apply in this system of screening. This type of investigation would be after the fact and would not be as effective a deterrent in preventing the unauthorized purchase of firearms.

In cases where false or stolen identification had been used, it would be impossible to identify the actual purchases.

While the ADP support is essentially the same for a post-sale check, the theoretical time required would be the same as for pre-sale check. Without the pressures to accomplish the check to facilitate the sale, it is believed the time would be longer.

Section 3

## Appraisal of ADP support functions.

Effective administration of a firearm pre-sale short response time investigation program would require installation of a Bureau-wide telecommunications terminal network, connected over leased or switched lines to a central computer system located at Headquarters. The Headquarters computer would perform essentially as a store and forward message switch supervisor with extensive accounting controls to insure task fidelity, provide for no-response follow-up, and gather historical data for periodic statistical and analytical reports.

The pre-sale program would utilize approximately 150 intelligent terminals distributed nationwide. These terminals would generate an investigative inquiry to Headquarters each time a firearm sale occurs. The volume of this sales activity is estimated at 4 million transactions per year (2 million new and 2 million used firearms). Each proposed sale transaction that comes to Headquarters would be processed against Headquarters data files, plus it would generate 5 additional transactions for automatic inquiry to the following locations: NCIC, TECS, State of Firearm Sale, State of Purchaser Residence, Department of Defense. The average daily system processing volumes translate as follows:

16,000 new originating inquiries  
 80,000 new destination inquiries  
 80,000 "old" destination responses  
 320 "no sale allowed" responses to  
     originating locations  
     (320 is 2% denials)

Total annual ADP costs estimated would be \$2.65 million

## Corrected Copy

## FIREARMS DEFENDANTS - JUDICIAL PROCESS

FISCAL YEAR	1970	1971	1972	1973	1974	3 Mos. 1975	6 Mos. 1975
PROSECUTION RECOMMENDED	3212	3473	4437	3677	4671	1151	2485
DECLINED	1231	1203	1441	1301	892	233	559
INDICTED	1309	1906	2645	2535	3243	773	1641
ACQUITTED	57	114	168	118	132	30	73
CONVICTED	577	1156	1567	1927	1314	577	1234

The question has been proposed as to why is there a decrease in the number of persons recommended for prosecution in the firearms category, comparing fiscal year 1974 with the first six months of fiscal 1975?

In fact, there is an increase in number of firearms defendants recommended for prosecution. The figure originally reported on our chart was 1151, which represented only the first three months of fiscal 1975. The figure for the first six months of fiscal 1975 is 2485. This represents approximately a 3% increase from the prior year at the six month point.



The following estimates are submitted for annual firearms thefts:

Interstate thefts.....	6,800
Dealer thefts.....	40,000
Individuals, military and others*.....	<u>112,012</u>
Total.....	158,812

\*Many weapons stolen from individuals, the military and other sources are not reported to the National Crime Information Center for various reasons. The absence of serial numbers on the weapon or a lack of knowledge as to what the weapon's serial number was would preclude entry into NCIC. The unlawful possession of a firearm by the individual from whom it was stolen or, in the case of many thefts from the military, the absence of any knowledge that the weapon or weapons had been stolen would preclude its entry into the system. Our best estimate is that thefts from individuals, military and other sources is about 20 to 40 percent higher than the figures shown above.



OFFICE OF  
THE DIRECTOR

DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, D.C. 20226

JUN 16 1975

The Honorable  
Birch Bayh  
United States Senate  
Washington, D. C. 20510

Dear Senator Bayh:

During the recent hearing on gun legislation before your Committee, we were asked to provide you with an estimate of the number of employees and the amount of money we would need in order to fully administer and enforce the Gun Control Act of 1968.

Our budget request for FY 1976 includes \$52,872,000 and 2,003 persons on the administration and enforcement of the Act. We have, after a detailed study into the many facets of the Act which we have not utilized because of a lack of resources, estimated that we would require 9,506 positions and \$278,154,000 over and above the FY 1976 needs.

Of the 9,506 positions, 6,884 would be special agents and inspectors. This would provide us with sufficient field personnel to initiate and apply several programs which we have, on a study or "project" basis, proven to be valid enforcement efforts to attack the problem of the criminal misuse of firearms. These program concepts are rather lengthy and we have enclosed a brief description of each for your use.

The balance of the positions represent the support functions necessary to train the field personnel, develop and operate a computer system, automate all "out-of-business" firearms dealers records, improve and widen our National Firearms Tracing Center, increase our forensic laboratory capabilities, and increase our internal inspection force. We have also provided for a small group to conduct continuing research into new operational concepts of law enforcement related to firearms.

To achieve the maximum, it would be necessary to phase both personnel and programs in over a six-year period in order to recruit and train special agents and inspectors, as well as arranging for

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The Honorable  
Birch Bayh

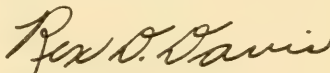
such simple logistics as space and equipment. Some of the proposed programs could not be started without there first being a change in the regulations which implement the Gun Control Act of 1968.

"One-time" costs include moving our Headquarters laboratory into new quarters, establishment of a field laboratory in San Francisco to serve the Western States, and a computer center.

During the study of our needs, we also established a level of positions and money necessary if we were to do nothing in the way of new programs, but simply continued our current activities but placed in the field the personnel we feel are needed. For your information, this figure is 2,384 positions with a budget of \$70,118,000. This would, of course, be over and above the FY 1976 figures quoted in the second paragraph.

We are prepared to discuss these estimates in greater detail with you at your convenience if needed.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Rex D. Davis". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Rex D. Davis  
Director

Enclosure

NEW PROGRAMSI. Dealer Theft Program

Through a change in regulations, we would require each licensed manufacturer, importer or dealer to report each theft of firearms to us within 24 hours after the theft. Each multiple theft would be investigated in conjunction with the local police to not only solve the immediate crime, but to prevent the movement of the stolen firearms into distant cities, where they enter the criminal world. This would require 801 positions with an attendant cost of \$23,476,000.

II. Operation Disarm the Criminal and Project Identification

In 1970, ATF assigned 50 additional special agents to work on firearms violations in the District of Columbia. Tagged as Operation D. C., which also stood for Disarm the Criminal, the operation was worked in conjunction with the D. C. Police Department and caused a measurable reduction of criminal misuse of firearms in the District.

In 1973, ATF initiated a 16-city study of the firearms seized by the police in those cities during their investigation of serious crimes. The study provided valuable intelligence on the source and types of handguns being used by the criminal.

This program would establish a combination of Operation D. C. and Project I in 10 major cities with a high crime index on a continuing basis or until the expected result of a reduction in the use of firearms by the criminal was achieved. Resources needed would be 1,616 positions and an attendant yearly cost of \$47,633,000.

III. Theft of Imported Firearms

An additional firearms theft program could be initiated focusing specific attention on international and dockside theft of firearms. A study conducted in San Francisco under the auspices of the Strike Force Attorney revealed significant pilferages and thefts of merchandise, including firearms. At the outset, this program would require 9 positions and a cost of \$218,000.



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IV. Recordkeeping (Submission of Forms 4473, Firearms Transaction Record)

A total of 6,945,435 firearms moved in interstate or foreign commerce in 1974. An undetermined number of guns were sold by individuals to dealers and then resold. It is estimated 6,000,000 firearms are involved in Form 4473 transactions each year. Based on experience gained in a study made in Greenville, S. C., in 1974, we estimate that 2% of those sales would require a complete investigation because the purchaser would have a felony record.

This type of enforcement would focus attention on the felon with the gun within a matter of hours and would prove a deterrent to crimes committed with firearms. It would require 4,432 positions and a cost of \$104,602,000.



OFFICE OF  
THE DIRECTOR

DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, D.C. 20226

JUN 26 1975

The Honorable  
Birch Bayh  
United States Senate  
Washington, D. C. 20510

Dear Senator Bayh:

The following represents additional information requested by your Committee during our appearance before it on the subject of firearms legislation:

- Q. Assess to what extent the theft of firearms plays in the commission of separate felonies. For example, in the commission of felonies, what percentage of the weapons were secured through legitimate channels and what percentage are secured through theft?
- A. Project Identification results from eight major U. S. cities (New York City, Atlanta, Detroit, New Orleans, Dallas, Denver, Kansas City and Oakland) show that 5,457 handguns were successfully traced. Of this number, 502 (9%) were stolen. The balance of 4,955 were obtained through legitimate channels. However, this is not to infer that all 4,955 firearms were obtained by legitimate means. As we stated, an individual who is willing to falsify the Form 4473, Firearms Transaction Record, may obtain a firearm from legitimate sources. Our Greenville, South Carolina, project proves this point.

Under the Project Identification concept, all handguns seized by the various police departments from any source during a specific period, usually ninety days, were traced. Statistics were not prepared showing the specific offense related to each weapon. Therefore, we are unable to assess "to what extent the theft of firearms plays in the commission of separate felonies."

- 2 -

The Honorable  
Birch Bayh

- Q. Furnish the Committee the results of our 300 gun sampling from the traces made of firearms from New York City during our Project Identification.
- A. A review was made of the 300 plus traces conducted by the ATF New York District office personnel as a result of Project 1 to determine how guns moved from the first retailer to the scene of the crime.

The following methods were employed by New York City residents to obtain handguns from "out-of-State" sources:

1. Return to their former State of residence and have a friend or relative purchase firearm(s) for them.
2. Use old driver's license or other old identification from former State of residence.
3. Borrow or steal necessary identification from friend or relative.
4. Request friends or relatives to bring firearm(s) to New York for them on the friends' or relatives' next visit.
5. Use social security card or some other means of identification and provide Federal firearms dealer with a fictitious local address.
6. Use stolen or fictitious identification.
7. Season workers, i.e. students, migrants, etc., obtain temporary driver's license while residing away from their home State.
8. Brought firearm to New York City when he migrated there.

The above methods are used with little or no variations throughout the majority of traces examined.

- 3 -

The Honorable  
Birch Bayh

The following is a breakdown of the status of the ATF investigations of the 308 traces conducted by the ATF New York District Office:

- 150 referrals to other ATF District Offices for investigation.
- 61 pending U. S. Grand Jury action.
- 41 closed because of no potential for prosecution.
- 29 declined by U. S. Attorney's office.
- 24 found to be stolen after sale by dealer.
- 3 have been prosecuted in Federal court.

- Q. Provide an assessment of the pawn shop problem as sources of firearms used in criminal acts.
- A. Utilizing data obtained from Project Identification, it becomes apparent that "pawn/loan" businesses dealing in firearms are a significant source of weapons used in crimes.

Handguns obtained by police during their investigations in the cities of Dallas, Denver, Kansas City and Oakland were traced during this project in order to determine retail sources as well as other data. A total of 1,082 handguns were successfully traced from these four cities during the three month study.

Analysis of this trace data reveals that 380 (35%) of all crime guns successfully traced in those four cities were purchased from a "pawn/loan" type business.

When the descriptive information relating to these 380 firearms was reviewed, another significant factor became apparent -- 68% could be classed as Saturday Night Specials under the ATF criteria of being a gun costing \$50 or less, having a 3" barrel or less and being .32 caliber or less. This percentage of "pawn/loan" Saturday Night Specials can be compared to the total handguns successfully traced where only 464 (43%) were found to have been of the Saturday Night Special category.



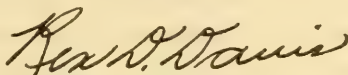
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The Honorable  
Birch Bayh

Additionally, it was found that 56% of all Saturday Night Specials used or involved in crimes during this four-city study came from "pawn/loan" businesses, whereas this type of business contributed only 35% of the total weapons.

If you have additional questions in regard to this information, please let us know.

Sincerely yours,

A handwritten signature in cursive script, reading "Rex D. Davis". The signature is written in dark ink and is positioned above the printed name and title.

Rex D. Davis  
Director

Department of the **TREASURY**

**NEWS**

**BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
Washington, D.C. 20226 202/961-7268



Embargoed for release at 11 a.m. (EDT)  
July 29, 1975

FY-76-4

BUFFALO, N.Y., July 29 -- Director Rex D. Davis of the Bureau of Alcohol, Tobacco and Firearms said today his agency is preparing a concentrated, stepped up enforcement against gun crimes in the nation's 11 major metropolitan areas.

Davis, whose Treasury Department bureau enforces federal firearms laws, said proposed plans for the concentrated enforcement center on the hiring of 500 special agents as requested by President Ford in his June 19 Crime Message.

The Director said the addition of 500 new agents will enable ATF to "assign veteran agents to the targeted metropolitan areas which will give us more agents on the street to apprehend criminals illegally using guns."

The targeted areas are New York, Los Angeles, Chicago, Philadelphia, Detroit, San Francisco, Washington, Boston, St. Louis and Pittsburgh and Dallas-Fort Worth.

The President in his Crime Message called for stricter firearms enforcement in the major metropolitan areas and directed ATF to add 500 investigators.

(more)

Speaking here before the New York State Assn. of Chiefs of Police Conference, Davis said ATF is preparing a four-pronged attack against street gun crimes in the 11 largest metropolitan areas.

In addition to moving veteran agents into these areas, he said the Bureau will trace all handguns recovered in crimes in those cities, for as long as the stepped up firearms enforcement is continued. This targeted gun tracing is called Project Identification, or Project I.

He said ATF agents also will expand their firearms dealer compliance programs in those areas, which will include a "close surveillance of the firearms transaction forms."

As the fourth step, Davis said, "If we find a source or a path of crime guns outside the city, we will move immediately to stop that traffic."

He noted that ATF's responsibility is not to make laws, but to enforce them and to keep guns out of the hands of criminals.

He said that as the United States prepares for its Bicentennial Year, "We find our nation faced with a continuing, devastating increase in crime rates, and crimes involving guns."

He said he supported the President's anti-crime proposals which called for a ban on Saturday Night Specials, a tightening of regulation over federally licensed firearms dealers, a waiting period for would-be firearms purchasers, and mandatory sentences for those convicted of crimes involving guns.

Proposed legislation by the Administration in response to the President's request, Davis said, would trim the ~~number~~ of licensed firearms dealers from 159,000 to about 30,000, would ban Saturday Night Specials, the small easily concealed handguns, and through a waiting period before purchase would help verify the authenticity of handgun purchasers.



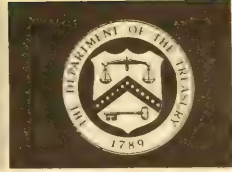
**Department of the** ***TREASURY***

**NEWS**

**BUREAU OF ALCOHOL, TOBACCO & FIREARMS**

Washington, D.C. 20226

202/961-7268



THE REFORTIFICATION OF FEDERAL FIREARMS LAWS

BY

REX D. DAVIS

DIRECTOR

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

U.S. TREASURY DEPARTMENT

TO BE PRESENTED BEFORE THE NEW YORK STATE ASSOCIATION OF  
CHIEFS OF POLICE CONFERENCE, JULY 29, 1975, AT 11 A.M. (EDT)  
AT THE STATLER HILTON HOTEL, BUFFALO, N.Y.

PRESIDENT RICKGABER, CHIEFS OF POLICE, AND YOUR GUESTS. I WANT TO THANK YOU FOR ASKING ME TO SPEAK HERE TODAY, AND, OF COURSE, PARTICULARLY JOE DOMINELLI, WHO EXTENDED THE INVITATION.

IT IS ALWAYS A PLEASURE TO ADDRESS A GROUP SUCH AS YOURS, WHICH IS COMPOSED OF LEADERS OF THE LAW ENFORCEMENT COMMUNITY, WHO UNDERSTAND THE PROBLEMS COMMON TO US ALL.

ATF TAKES PRIDE IN ITS RELATIONSHIP WITH LOCAL LAW ENFORCEMENT GROUPS. INDEED, WE ARE A FEDERAL AGENCY WHICH TRADITIONALLY ENCOURAGES ITS PERSONNEL TO WORK HAND-IN-GLOVE WITH LOCAL LAW ENFORCEMENT GROUPS. THIS HAS PLAYED AN IMPORTANT ROLE IN ATF'S SUCCESSFUL OPERATION.

OUR COUNTRY STANDS ON THE EVE OF AN IMPORTANT BIRTHDAY. ALL AMERICA IS WAITING WITH SOME ANTICIPATION--AND LAW ENFORCEMENT AGENCIES WITH SOME TREPIDATION--THE COMING OF 1976--OUR BICENTENNIAL YEAR.

UNFORTUNATELY, AS WE PREPARE FOR THIS SIGNIFICANT 200TH BIRTHDAY, WE FIND OUR NATION FACED WITH A CONTINUING, DEVASTATING INCREASE IN CRIME RATES, AND CRIMES INVOLVING GUNS.

SINCE THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS ENFORCES FEDERAL FIREARMS LAWS, WE ARE CAUGHT UP IN THE CONTROVERSY OVER GUN CONTROL -- AND ITS NEED -- ALTHOUGH I SHOULD EMPHASIZE THAT WE DO NOT MAKE THE LAWS -- ONLY ENFORCE THEM.

THE THRUST OF OUR MISSION IS TO KEEP FIREARMS OUT OF THE HANDS OF CRIMINALS. TO PERFORM THIS TASK, IT IS IMPERATIVE THAT WE WORK WITHIN THE BOUNDS OF THE LEGISLATION WHICH AUTHORIZES US TO DO SO.

THUS, I AM GOING TO SPEAK TODAY ON A SUBJECT WHICH IS CLOSE TO EVERYONE HERE -- THAT OF FEDERAL FIREARMS LAWS AND THE NEED TO REINFORCE THEM, BASED ON THE EXPERIENCE OF THE BUREAU DURING ITS ENFORCEMENT OF THE LAW SINCE 1968.

I ADDRESS THE SUBJECT OF FIREARMS REGULATION IN ITS RELATIONSHIP TO CRIME, AND WHAT WOULD BE THE MOST EFFECTIVE AND EFFICIENT WAYS TO CLOSE LOOPHOLES IN THE LAW.

BECAUSE OF THESE LOOPHOLES, CRIMINALS ARE OBTAINING HAND-GUNS, AND USING THEM IN CRIME.

THE INCIDENCE OF THE USE OF FIREARMS IN CRIME IS OF PRIMARY CONCERN TO US ALL. NEWSPAPERS ACROSS THE NATION DAILY ARE FILLED WITH REPORTS OF CRIMINALS, POLICEMEN, VICTIMS AND BYSTANDERS WOUNDED OR KILLED IN A HAIL OF CRIMINALLY INSPIRED BULLETS WHICH SHATTER ANY ILLUSION OF DOMESTIC TRANQUILITY.

THE PROBLEM OF GUNS IN CRIME IS ESCALATING. STATISTICS TELLS US WHAT OUR POLICEMEN ALREADY KNOW.

IN 1964, THERE WERE 57 STATE AND LOCAL LAW ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY. IN 1973, THE NUMBER KILLED WAS 127 -- 120 BY FIREARMS AND 86 OF THESE BY HANDGUNS.

IN 1973, HANDGUNS WERE INVOLVED IN 40 PER CENT OF THE 400,000 ARMED ROBBERIES REPORTED.

AND OF THE NEARLY 20,000 HOMICIDES IN 1973, MORE THAN HALF INVOLVED HANDGUNS.

THE SHAMEFUL, SPIRALING STATISTICS OF FIREARMS-RELATED CRIMES CONTINUE UNABATED. BECAUSE OF THESE FIGURES, AND THE SIZE OF THIS SERIOUS SOCIETAL PROBLEM, THERE IS A GROUNDSWELL OF SENTIMENT AMONG CONGRESS, THE PUBLIC -- AND CERTAINLY LAW ENFORCEMENT OFFICERS -- THAT SOMETHING POSITIVE SHOULD BE DONE TO STOP THE COMPARATIVELY EASY ACCESSIBILITY OF FIREARMS BY THOSE WHO WOULD COMMIT CRIME.

THE LATEST BUREAU ESTIMATE IS THAT THERE ARE 40 MILLION HANDGUNS PRIVATELY OWNED IN THE UNITED STATES. FOR THE CRIMINAL OR WOULD-BE CRIMINAL, THIS IS A GIGANTIC RESERVOIR FROM WHICH HE CAN ARM HIMSELF WITHOUT DIFFICULTY THROUGH THEFT, GUILE, OR BY LEGAL MEANS.



PRESIDENT FORD ADDRESSED HIMSELF TO THIS PROBLEM IN HIS CRIME MESSAGE OF JUNE 19. THE INTENT OF THESE RECOMMENDATIONS WAS TO CONTAIN THE CRIMINAL MISUSE OF FIREARMS -- BUT WITHOUT RESORTING TO REGISTRATION OR CONFISCATION.

THE PRESIDENT'S MESSAGE CALLED FOR SOME SPECIFIC ACTIONS WHICH WOULD REFORITIFY EXISTING LAWS WHICH ATF ENFORCES. ONE WAS A REQUEST TO BAN THE IMPORTATION, MANUFACTURE AND SALE OF SATURDAY NIGHT SPECIALS.

ANOTHER ACTION WOULD ATTACK THE PROBLEM OF THE CRIMINAL MISUSE OF FIREARMS IN THE 10 -- LATER ENLARGED TO 11 -- LARGEST METROPOLITAN AREAS BY AUTHORIZING ATF TO HIRE 500 NEW AGENTS.

STILL ANOTHER ACTION WOULD TIGHTEN ATF'S REGULATION OF LICENSED FIREARMS DEALERS. IN EFFECT, THIS SHOULD REDUCE THE NUMBER OF FIREARMS DEALERS FROM THE PRESENT 159,000 TO ABOUT 30,000. THIS REDUCTION WILL MAKE THEIR REGULATION MORE MANAGE-ABLE BY ATF'S OUTNUMBERED FORCES.

THE PRESIDENT CALLED FOR A WAITING PERIOD FROM THE TIME A PERSON APPLIES TO A LICENSED DEALER TO PURCHASE A GUN TO THE ACTUAL SALE. AND THE PRESIDENT CALLED FOR A BAN ON ALL MULTIPLE SALES OF HANDGUNS.

TO IMPLEMENT THE PRESIDENT'S REQUESTS, THE ADMINISTRATION HAS FORMULATED THE HANDGUN CONTROL BILL OF 1975. THIS MEASURE WAS WRITTEN BY THE JUSTICE DEPARTMENT WITH CONSIDERABLE INPUT BY THE DEPARTMENT OF THE TREASURY AND ATF.

THE BILL WOULD DO SEVERAL IMPORTANT THINGS TO RESPOND TO THE PRESIDENT'S MESSAGE:

--IT WOULD BAN THE IMPORTATION, MANUFACTURE AND SALE OF SATURDAY NIGHT SPECIALS.

--IT WOULD INCREASE THE FEES FOR LICENSED FIREARMS DEALERS AND REQUIRE MORE PROOF OF COMMERCIAL INTENT BY THE LICENSEE. IF THE BILL IS PASSED, THE LIKELY RESULT WOULD BE TO REDUCE BY THREE-QUARTERS THE NUMBER OF LICENSED DEALERS.

--IT WOULD RESTRICT THE SALE OF HANDGUNS TO NO MORE THAN ONE EVERY 30 DAYS TO THE SAME PERSON.

--IT WOULD PROVIDE A WAITING PERIOD BETWEEN APPLICATION TO PURCHASE AND THE ACTUAL SALE OF ALL HANDGUNS.

--IT WOULD PROVIDE MANDATORY PRISON SENTENCES FOR THOSE PERSONS ARRESTED DURING THE COMMISSION OF A CRIME WITH A GUN.

EACH OF THESE PROVISIONS IS IMPORTANT. AND I AM CERTAIN THAT THE SUCCESSFUL APPLICATION OF EACH PROVISION WILL HAVE ITS OWN IMPACT ON THE REDUCTION OF ARMED CRIME.

PERHAPS MOST IMPORTANT ARE PROPOSALS WHICH SHOULD ELIMINATE THE FREQUENT ABILITY OF FELONS, THE MENTALLY INCOMPETENT AND OTHERS DISALLOWED FROM BUYING OR POSSESSING GUNS, FROM ACTUALLY PURCHASING FIREARMS.

TO ACCOMPLISH THIS, THE PROCEDURE FOR PURCHASE WOULD BE MORE EXACTING. THE PROPOSALS WOULD REQUIRE THE WOULD-BE PURCHASER TO APPEAR AT THE DEALER'S STORE IN PERSON AND TO PROVIDE SUFFICIENT IDENTIFICATION. THE PROSPECTIVE BUYER WOULD FILL OUT A SWORN STATEMENT IN WHICH HE WOULD PROVIDE HIS NAME, ADDRESS, AGE, HIS RESIDENCE, THE LOCATION WHERE THE HANDGUN WOULD BE KEPT, AND A STATEMENT TO THE EFFECT THAT HE IS NOT PROHIBITED BY STATE OR LOCAL LAW, AND THAT HE DOES NOT INTEND TO RESELL TO A PERSON WHO IS SO PROHIBITED.

THIS LAST PROVISION IS IMPORTANT. THE GUN CONTROL ACT OF 1968 PROHIBITS FELONS, THOSE PERSONS UNDER INDICTMENT, THOSE ADJUDGED MENTALLY INCOMPETENT, AND DRUG ADDICTS FROM PURCHASING FIREARMS FROM A FEDERALLY LICENSED DEALER. HOWEVER, THERE IS NOTHING IN THE LAW WHICH FORBIDS A PERSON FROM BUYING A HANDGUN FROM A DEALER AND THEN TURNING AROUND AND SELLING IT TO SOMEONE IN A PROHIBITED CATEGORY. THE PROPOSED LAW WOULD PLACE THIS IMPORTANT RESTRICTION ON THE RESALE OF A HANDGUN.

THIS SWORN STATEMENT THEN IS FORWARDED BY THE DEALER TO TWO LOCATIONS -- TO THE CHIEF LAW ENFORCEMENT OFFICER AT THE PURCHASER'S RESIDENCE -- AND TO THE PLACE WHERE THE HANDGUN WILL BE KEPT -- IF IT IS DIFFERENT.

ONCE THIS SWORN STATEMENT IS SENT TO THE LOCAL LAW ENFORCEMENT CHIEF, HIS DEPARTMENT HAS ONE OF SEVERAL OPTIONS. THROUGH PERSONAL KNOWLEDGE OR RECORDS, HE CAN CERTIFY THE AUTHENTICITY AND LEGALITY OF THE WOULD-BE PURCHASER, HE CAN ALSO REQUEST A NAME CHECK FROM THE FBI.

IF THE DEALER DOES NOT RECEIVE A REPLY TO HIS REQUEST FOR A NAME CHECK WITHIN A GIVEN PERIOD, THEN HE WOULD BE ENTITLED TO SELL THE HANDGUN TO THE WOULD-BE PURCHASER WITHOUT FURTHER DELAY.

THE REQUIREMENT FOR A SWORN STATEMENT TO BE ROUTED THROUGH POLICE HAS AN IMPORTANT FUNCTION SINCE IT REVEALS TO LOCAL LAW ENFORCEMENT OFFICERS THE IDENTITY OF THOSE BUYING HANDGUNS IN THEIR AREAS. THIS PROCEDURE IS NOT GUN REGISTRATION, BUT IT IS A VERIFICATION OF THE INDIVIDUAL'S LEGAL STATUS FOR OWNERSHIP

THUS, THE SHERIFF OR POLICE CHIEF CAN INSURE THAT RESIDENTS IN THEIR JURISDICTONS ARE NOT ACQUIRING GUNS IN VIOLATION OF LAW. AT THE SAME TIME, THE PRESIDENT'S PROPOSALS DO NOT TIGHTEN ANY REQUIREMENTS FOR GUN OWNERSHIP.



THE PROCEDURE CERTIFIES THAT THE GUN PURCHASER IS WHO HE SAYS HE IS, THAT HE IS LEGALLY PERMITTED TO BUY AND OWN A GUN, AND THAT IT IS NOT CONTRARY TO LAW TO KEEP THE GUN WHERE THE PURCHASER SAYS HE WILL KEEP IT.

UNDER PRESENT LAW, THERE IS NO WAY FOR A LICENSED FIREARMS DEALER TO ACTUALLY DETERMINE THE AUTHENTICITY OF A WOULD-BE PURCHASER OTHER THAN TO ACCEPT SOME PERSONAL IDENTIFICATION. INDEED, IT IS NOT FEASIBLE TO EXPECT A DEALER TO DO SO.

EVERY THINKING LAW ENFORCEMENT CHIEF HAS LOOKED ABOUT IN AMAZEMENT AT ONE TIME OR ANOTHER AT THE PROLIFERATION OF FIREARMS, THEIR SOURCES, AND THEIR USE IN CRIME AND ASKED HIMSELF WHY AND WHAT CAN BE DONE.

THEREFORE, THE PRESIDENT'S ANTI-CRIME RECOMMENDATIONS DO ADDRESS THEMSELVES TO AN IMPORTANT PART OF THE PROBLEM--THAT OF REDUCING THE NUMBER OF FIREARMS DEALERS TO MANAGEABLE PROPORTIONS, AND MAKING CERTAIN OF THE IDENTITY OF THOSE WHO PURCHASE HANDGUNS.

SOME OF THE PROPOSALS IN THE CRIME BILL YOU MAY BELIEVE TO BE TOO LITTLE AND TOO LATE, OR TOO STRONG OR NOT STRONG ENOUGH, BUT THERE CAN BE NO ARGUMENT WITH THE INTENT OF THE PROPOSALS--WHICH IS TO DISARM THE CRIMINAL.

MANY NEEDED CHANGES BECAME APPARENT ONCE ATF BEGAN ITS TASK OF REGULATING FIREARMS DEALERS, AND WHEN THE BUREAU BEGAN IN EARNEST TO TRACE FIREARMS.

WHEN ATF BECAME A SEPARATE BUREAU OF THE TREASURY DEPARTMENT IN JULY OF 1972, ONE OF THE FIRST TASKS SET OUT WAS TO ESTABLISH THE CAPABILITY OF TRACING GUNS--NOT JUST FOR OURSELVES BUT FOR ANY AGENCY WHICH REQUESTED IT.

AS A RESULT, THE ATF NATIONAL FIREARMS TRACING CENTER WAS ESTABLISHED IN OCTOBER OF 1972. OUR SYSTEM IS UNCOMPLICATED BUT EFFECTIVE. OUR AGENTS BY TELEPHONE OR TWIX TRANSMIT TO THE TRACING CENTER IN WASHINGTON A DESCRIPTION OF THE GUN INVOLVED.

THE INITIAL JOB OF THE TRACER IS TO DETERMINE THE MANUFACTURER WHO THEN IS CONTACTED BY TELEPHONE. THE MANUFACTURERS--BOTH DOMESTIC AND FOREIGN--ADVISE THE TRACER TO WHOM THE GUN WAS CONSIGNED WHEN IT WAS SHIPPED FROM THE FACTORY.

OUR TRACERS FOLLOW THE PATH OF THE GUN TO ITS FIRST RETAIL SALE. IF THAT SALE IS WITHIN THE STATE OF THE REQUESTING AGENCY, THE TRACERS USUALLY DO NOT CONTACT THE DEALER DIRECTLY, BUT THE INFORMATION IS GIVEN TO THE REQUESTING ATF AGENT.

IT IS SIGNIFICANT THAT ATF IS TRACING AN AVERAGE OF 3,100 GUNS A MONTH AND THAT 54 PER CENT IS FOR STATE AND LOCAL LAW ENFORCEMENT ORGANIZATIONS. DURING 1974, ATF TRACED GUNS AS A SERVICE TO 2,527 DIFFERENT LAW ENFORCEMENT AGENCIES IN ALL 50 STATES.

ADMITTEDLY, THERE ARE SOME GAPS IN THE TRACING SYSTEM. ONCE THE DEALER HAS SOLD A GUN, IT IS THEN POSSIBLE FOR IT TO BE "LOST" TO THE TRACING SYSTEM FOR THERE IS NO RESTRICTION ON THE SALE OF GUNS BY INDIVIDUALS, EXCEPT THAT THE SALE MUST BE MADE IN THE STATE IN WHICH THE BUYER AND SELLER RESIDE.

ONCE THE BUREAU ESTABLISHED THE CAPABILITY OF TRACING FIREARMS, WE EMBARKED UPON A MAJOR STUDY OF WHICH I AM CERTAIN ALL OF YOU ARE AWARE. THIS IS OUR PROJECT IDENTIFICATION, OR PROJECT I, AS IT IS CALLED.

IN PROJECT I, POLICE DEPARTMENTS IN SELECTED CITIES COOPERATED BY PROVIDING SERIAL NUMBERS OF GUNS RECOVERED IN CRIMES IN THOSE CITIES DURING GIVEN PERIODS. THE CITIES WERE NEW YORK, DETROIT, ATLANTA, NEW ORLEANS, DALLAS, DENVER, KANSAS CITY, OAKLAND, MIAMI-DADE COUNTY, MINNEAPOLIS-ST. PAUL, PHILADELPHIA, SEATTLE, BOSTON, CHARLOTTE, LOUISVILLE AND LOS ANGELES.

DURING PROJECT I, THE BUREAU TRACED A TOTAL OF 7,815 HANDGUNS TO THEIR LAST RETAIL DEALER. WE WERE PARTICULARLY ANXIOUS TO DETERMINE WHAT TYPE OF HANDGUNS WERE BEING USED IN CRIME, AND HOW MANY WERE SATURDAY NIGHT SPECIALS.

WE ARBITRARILY DEFINED A SATURDAY NIGHT SPECIAL AS HAVING A BARREL LENGTH OF 3 INCHES OR LESS, OF .32 CALIBER OR LESS AND COSTING \$50 OR LESS. BASED ON THESE THREE STRICT CRITERIA, WE IDENTIFIED 3,486 OR 45 PER CENT OF THE GUNS AS SATURDAY NIGHT SPECIALS.

OF THE GUNS TRACED, IT WAS FOUND THAT 6,590, OR 71 PER CENT, HAD A BARREL LENGTH OF THREE INCHES OR LESS; THAT 5,797 HANDGUNS, OR 61 PER CENT, WERE .32 CALIBER OR LESS, AND THAT 5,336 GUNS, OR 56 PER CENT, WERE LOW QUALITY COSTING \$50 OR LESS.

ANY WAY YOU LOOK AT IT, THE EVIDENCE IS THAT THERE IS A STRONG PREPONDERANCE OF SMALL, CHEAP, LOW CALIBER HANDGUNS BEING USED IN STREET CRIMES. MOST OF US SUSPECTED THIS FACT, BUT UNTIL THE BUREAU BEGAN PROJECT I, THERE WAS NO STATISTICAL EVIDENCE TO SHOW THE SCOPE OF THEIR USE.

PROJECT I ALSO SHOWED THAT MANY CRIME GUNS WERE SOLD TO FELONS WHO FALSIFIED THE FIREARMS TRANSACTION FORMS.

WE ALSO DETERMINED THAT MANY CRIME GUNS ARE STOLEN. THE COMPOSITE FOR THE 16 SELECTED CITIES INDICATES AN AVERAGE OF 6 PER CENT STOLEN GUNS.



IN THE LATTER STAGES OF THE STUDY WE FOUND THAT A SUBSTANTIAL NUMBER OF PROJECT I GUNS USED IN CRIMES HAD BEEN PURCHASED FROM PAWNSHOPS.

IT WAS BECAUSE OF THESE FINDINGS AND OTHER DIVERSE FACTORS THAT THE PRESIDENT DECIDED THAT THE BUREAU SHOULD EMPHASIZE ITS ENFORCEMENT OF FIREARMS LAWS IN THE MAJOR METROPOLITAN AREAS WHERE THE INCIDENT OF GUN CRIMES IS THE HIGHEST. HIS MANDATE WAS THAT ATF EMPLOY 500 NEW INVESTIGATORS TO PERFORM THIS TASK.

WE HAVE A FOUR-PRONGED ATTACK PLANNED FOR OUR STEPPED UP FIREARMS ENFORCEMENT IN THE 11 SELECTED METROPOLITAN AREAS.

FOR ONE THING, WE INTEND TO CONTINUE PROJECT I IN EACH OF THE TARGETED AREAS SINCE OUR ABILITY TO TRACE GUNS IS AN IMPORTANT INVESTIGATORY TOOL. THIS MEANS WE WILL TRACE EACH AND EVERY HANDGUN PICKED UP BY THE POLICE IN THOSE AREAS DURING THE PERIOD OF OUR INCREASED ENFORCEMENT.

WE ALSO INTEND TO EXPAND CONSIDERABLY OUR FIREARMS DEALER COMPLIANCE PROGRAM IN THOSE 11 METROPOLITAN AREAS. OUR AGENTS WILL MAKE MANY MORE COMPLIANCE VISITS TO LICENSED DEALERS. THESE VISITS WILL INCLUDE A CLOSE SURVEILLANCE OF THE FIREARMS TRANSACTION FORMS.

IF WE FIND A SOURCE OR A PATH OF CRIME GUNS OUTSIDE THE CITY, WE WILL MOVE IMMEDIATELY TO STOP THAT TRAFFIC.

THE ADDITION OF 500 NEW INVESTIGATORS WILL ENABLE US TO ASSIGN VETERAN AGENTS TO THE TARGETED METROPOLITAN AREAS WHICH WILL GIVE US MORE AGENTS ON THE STREET TO APPREHEND CRIMINALS ILLEGALLY USING GUNS.

THE ACQUISITION OF 500 NEW AGENTS WILL NOT COME OVERNIGHT . WE INTEND TO REASSIGN VETERAN AGENTS TO THE POPULOUS METROPOLITAN AREAS TO BEGIN THE FIREARMS WORK WHEN THE PROJECT IS FUNDED. SPECIAL AGENTS ARE NOT MADE IN A DAY. NEW AGENTS MUST ATTEND THE BASIC SCHOOL FOR TREASURY AGENTS. IT HAS BEEN ATF POLICY TO TRAIN NEW INVESTIGATORS ON THE JOB WITH VETERAN AGENTS. THIS PRACTICE WILL NOT BE FOREGONE FOR EXPENDIENCY'S SAKE.

HOWEVER, THE BUREAU IS GIRDED AND READY TO MOVE.

OF COURSE, THE BUREAU ITSELF HAS INITIATED MANY PROGRAMS AND ACTIONS AIMED AT CONTAINING THE MOUNTING FIREARMS PROBLEM. WE BEGAN OUR OWN MULTIPLE SALES PROGRAM JULY 1 WHICH REQUIRES A DEALER TO REPORT TO ATF THE SALE OF MORE THAN ONE GUN TO THE SAME INDIVIDUAL DURING FIVE BUSINESS DAYS. WE HAVE RECLASSIFIED PENGUNS AS FIREARMS TO BETTER CONTROL THEM. WE HAVE ASSIGNED REGULATORY INSPECTORS TO THE JOB OF PERFORMING FIREARMS DEALERS' COMPLIANCE VISITS. OUR INTERSTATE TRUCK THEFT REPORTING PROGRAM WHICH INVOLVES THE VOLUNTARY REPORTING BY CARRIERS OF LOST OR STOLEN FIREARMS IN TRANSIT HAS PAID DIVIDENDS.

OUR SIGNIFICANT CRIMINAL--ARMED AND DANGEROUS--PROGRAM HAS BEEN FRUITFUL. AS YOU KNOW, WITH THE ASSISTANCE OF LOCAL LAW ENFORCEMENT AGENCIES, WE ARE IDENTIFYING THE WORST CRIMINALS IN EACH LOCATION. ATF AGENTS THEN SEEK TO APPREHEND THOSE CRIMINALS USING FEDERAL FIREARMS AND EXPLOSIVES LAWS. DURING THE FIRST SIX MONTHS OF THIS PROGRAM, WE IDENTIFIED AND PLACED UNDER ACTIVE INVESTIGATION 1,073 SIGNIFICANT CRIMINALS OF WHICH 427 HAVE BEEN ARRESTED THUS FAR.

THESE ARE JUST SOME OF THE HIGHLIGHTS OF OUR RECENT ACTIVITIES.

SOMETHING WHICH HAS BECOME APPARENT TO OUR CITIZENS AND WHICH IS A FACT-OF-LIFE THAT ALL POLICEMEN HAVE KNOWN FOR MANY YEARS IS THAT THERE ARE TOO MANY GUNS IN THE UNITED STATES, TOO AVAILABLE, AND TOO MUCH USED IN CRIME.

THUS, THE ADMINISTRATION PROPOSALS WILL HELP TO REFORTIFY FUTURE ENFORCEMENT OF THE FIREARMS LAWS. THE RESULT WILL BE TO OFFER OUR CITIZENS SOME SORELY NEEDED RELIEF FROM THE LAW OF THE CRIME GUN WHICH PERMEATES OUR NATION, PARTICULARLY OUR CROWDED URBAN AREAS.

AS LAW ENFORCEMENT LEADERS, WE HAVE A DUAL CON-  
STITUENCY--THE OFFICERS WHO SERVE UNDER US, AND OUR  
CITIZENS WHOM WE STRIVE TO PROTECT. WE ARE RESPONSIBLE  
FOR THE SAFETY AND WELL BEING OF BOTH. CLOSER REGULA-  
TION OF FIREARMS WILL HELP US SUCCESSFULLY DO OUR TASK.

THANK YOU.



## PROJECT "I" BRIEFING PAPER

Project "I" (identification) had its beginning in the Bureau of Alcohol, Tobacco and Firearms as a pilot study in 1973. At that time the Police Departments in the cities of Atlanta, Detroit, New Orleans and New York were asked to submit a description of all *handguns* used in street crimes, to the Bureau for tracing. This part of Project "I" is known as phase 1.

Phase 2 of Project "I" included the cities of Dallas, Denver, Kansas City, Missouri and Oakland, California.

Phase 3 included the cities of Miami/Dade County, Philadelphia, St. Paul/Minneapolis and Seattle. We are presently awaiting a computer printout of Phase 3 on which we can base an analysis.

We initiated phase 4 of Project "I" on January 15, 1975, in the cities of Boston, Charlotte, N.C., Los Angeles and Louisville. Phase 4 will end on April 15, 1975.

The original objectives of project "I" were to determine the sources of handguns used in "street crimes", types of handguns used in these crimes and, by tracing, furnish investigative leads to the police in these cities and to the Bureau's special agents if violations of the Gun Control Act were found to exist.

At the onset of Project "I" it was not our intent, nor our purpose, to keep statistical records regarding the number of investigations conducted, or criminal cases developed by the Bureau or the Police departments in the Project "I" cities. Consequently, no instructions were issued to the field offices in the Project cities to gather statistics in any specific categories.

During the tracing facet of Phase 3 of this Project, we were concurrently analyzing the trace results of Phase 2. At this time it was determined that certain statistics would be meaningful; indeed necessary, to determine the usefulness and future of the project itself.

Therefore, we have initiated procedures by which we can identify Federal investigations, cases perfected and the judicial and/or administrative disposition of these cases.

The term "saturday night special" is used broadly by law enforcement agencies, news media, movies, television shows and others who have occasion to synonymize a popular street crime weapon. However, for the purpose of project "I" only, ATF has defined a "saturday night special" as a handgun which meets *all three* of the following criteria: (A) cost—less than \$50.00; (B) caliber—.32 or less; (C) barrel length—3" or less.

The following are highlights of the statistics which evolved from Phase 1 of Project "I".

## DETROIT, MICHIGAN

1,262 handguns submitted for tracing.

422 were untraceable.

840 or 67% were successfully traced.

390 or 46% of those successfully traced met the "saturday night special" criteria.

109 or 13% of the Detroit handguns successfully traced, had been stolen.

840 handguns were successfully traced of which 770 or 92% were traced to sources out of the State of Michigan.

## NEW ORLEANS, LOUISIANA

324 handguns submitted for tracing.

0 were untraceable.

324 or 100% were successfully traced.

95 or 29% of those successfully traced met the "saturday night special" criteria.

5 or 1½% of the New Orleans handguns successfully traced, had been stolen.

324 handguns were successfully traced of which 47 or 15% were traced to sources out of the State of Louisiana.

## NEW YORK CITY, NEW YORK

2,931 handguns submitted for tracing.

130 of these were identified as New York police department being held for ballistics tests, evidence or other proceedings and were excluded from these statistics.

2,801 handguns submitted for tracing.

255 were untraceable because of age, military, communist country origin or lack of records.

2,546 or 91% were successfully traced.

1,348 or 53% of those successfully traced met the "saturday night special" criteria.

263 or 10% of the New York handguns traced, had been stolen

2,546 handguns were successfully traced of which 1,956 or 77% were traced out of the State of New York.

#### ATLANTA, GEORGIA

827 handguns submitted for tracing.

162 were untraceable.

665 or 80% were successfully traced.

466 or 56% of those successfully traced met the "saturday night special" criteria.

50 or 8% of the Atlanta handguns traced, had been stolen.

665 handguns were successfully traced of which 128 or 19% were traced out of the State of Georgia.

The following are highlights of the statistics from phase 2 of Project "I".

#### DALLAS, TEXAS

654 handguns submitted for tracing.

137 were untraceable, i.e. military origin, age, etc.

517 or 79% were successfully traced.

254 or 49% of those successfully traced met the "saturday night special" three part criteria.

195 or almost 38% of the 517 were traced to pawn/loan shop source.

137 or 70% of these met the "saturday night special" three part criteria.

137 or 54% of all Dallas "saturday night specials" were traced to pawn/loan shops.

17 or 3% of the Dallas handguns traced, had been stolen.

517 handguns were successfully traced of which 67 or 13% were traced to sources out of the State of Texas.

#### DENVER, COLORADO

190 handguns submitted for tracing.

36 were untraceable.

154 or 81% were successfully traced.

52 or 34% of those successfully traced met the "saturday night special" three part criteria.

63 or over 40% were traced to pawn/loan shop source.

38 or 60% of these met the "saturday night special" criteria.

38 or 73% (of 52) Denver "saturday night specials" were traced to pawn/loan shops.

11 or 7% of the Denver handguns traced, had been stolen.

154 handguns were successfully traced of which 34 or 22% were traced to sources out of the State of Colorado.

#### KANSAS CITY, MISSOURI

311 handguns submitted for tracing.

89 were untraceable.

222 or 71% were successfully traced.

68 or 31% of those successfully traced met the "saturday night special" three part criteria.

45 or 20% were traced to a pawn/loan shop source.

30 or 67% of these 45 met the "saturday night special" criteria.

30 or 44% of all Kansas City, Missouri "saturday night specials" were traced to pawn/loan shops.

38 or 17% of the Kansas City handguns traced, had been stolen.

222 handguns were successfully traced of which 145 or 65% were traced to sources out of the State of Missouri.

## OAKLAND, CALIFORNIA

245 handguns submitted for tracing.  
 56 were untraceable.  
 189 or 77% were successfully traced.  
 90 or 48% of those successfully traced met the "saturday night special" three part criteria.  
 77 or 41% of the 189 were traced to a pawn/loan shop source.  
 55 or 71% of these 77 met the "saturday night special" criteria.  
 55 or 61% of all Oakland "saturday night specials" were traced to pawn/loan shops.  
 9 or 5% of the Oakland handguns traced, had been stolen.  
 189 handguns were successfully traced of which 49 or 26% were traced to sources out of the State of California.

A complete analysis of the third phase of Project "I" conducted in Miami/Dade County, St. Paul/Minneapolis, Philadelphia and Seattle has not been completed at this time. However, some of the statistical categories are available.

This report treats Dade County, Miami, St. Paul and Minneapolis as individual entities. In the Project "I" report Dade County and Miami will be treated as one entity and St. Paul and Minneapolis as one entity.

## MIAMI, FLORIDA

632 handguns were submitted for tracing.  
 436 were successfully traced.  
 106 or 24% of those successfully traced met the "saturday night special" three part criteria.  
 49 or 11% were traced to pawn/loan shop sources.  
 436 handguns were successfully traced of which 80 or 18% were traced to sources out of the State of Florida.

## PHILADELPHIA, PENNSYLVANIA

993 handguns submitted for tracing.  
 571 or 58% were successfully traced.  
 192 or 34% of those successfully traced met the "saturday night special" three part criteria.  
 46 or 8% were traced to pawn/loan shop sources. (With 2 exceptions—these pawn/loan shops were not located in Pennsylvania)  
 571 were successfully traced of which 265 or 46% were traced to sources out of the State of Pennsylvania.

## SEATTLE, WASHINGTON

219 handguns submitted for tracing.  
 129 or 59% were successfully traced.  
 35 or 27% of those successfully traced met the "saturday night special" three part criteria.  
 41 or 32% were traced to pawn/loan shop sources.  
 129 handguns were successfully traced of which 31 or 24% were traced to sources out of the State of Washington.

## DADE COUNTY, FLORIDA

325 handguns submitted for tracing.  
 216 or 66% were successfully traced.  
 61 or 28% of those successfully traced met the "saturday night special" three part criteria.  
 48 or 22% were traced to pawn/loan shop sources.  
 216 handguns were successfully traced of which 31 or 14% were traced to sources out of the State of Florida.



## MINNEAPOLIS, MINNESOTA

202 handguns submitted for tracing.

129 or 64% successfully traced.

44 or 34% of those successfully traced met the "saturday night special" three part criteria.

17 or 13% were traced to pawn/loan sources.

129 handguns were successfully traced of which 27 or 21% were traced to sources out of the State of Minnesota.

## ST. PAUL, MINNESOTA

81 handguns submitted for tracing.

49 or 60% were successfully traced.

9 or 18% of those successfully traced met the "saturday night special" three part criteria.

8 or 16% were traced to pawn/loan shop sources.

49 handguns were successfully traced of which 19 or 39% were traced to sources out of the State of Minnesota.

A composite of all three phases of Project "I" is as follows:

A total of 9,196 firearms were received for tracing and a total of 6,858 were successfully traced, or 75%.

3,210 or 47% of the successfully traced firearms met the "saturday night special" criteria as set forth in this report.

A total of 514 firearms were found to have been stolen, or 7% of the total successfully traced.

Project "I" also revealed that 92% of all firearms traced from Detroit, Michigan were traced to dealers in another State. This indicator of interstate movement can also be seen in the statistics from New York, where 77% of the firearms were traced to dealers in other States; in Kansas City, Missouri where 65% were from another State; in Philadelphia where 46% were from another State. A total of all studies revealed that 53% of the firearms were traced to a retail dealer in a State other than where the firearm was found by police.

As stated earlier, it was not the Bureaus intent to keep statistical records regarding the number of criminal cases developed as a result of Project "I".

There were numerous criminal cases perfected for prosecution by the Bureau as a direct result of this project.

One of the more noteworthy occurred in the Philadelphia area. The project revealed that an individual purchased 136 handguns and three (3) long guns from a federally licensed dealer during a seven month period. A criminal record check disclosed that he was a convicted burglar and narcotics violator. After his arrest for falsifying Forms 4473 (Firearms Transaction Records) he admitted to ATF special agents that he had been reselling the firearms out of his car trunk in the Philadelphia metropolitan area.

Another case was that of a Michigan resident having friends and relatives purchase firearms for him in Ohio. Investigation revealed that he came into possession of 190 handguns in this manner, which he illegally sold to Michigan residents. Of this number, 25 had been seized by Michigan police agencies for various violations of the law.

Our New York ATF district office received a call from an assistant district attorney of Kings County, New York. During an ongoing trial for kidnapping and possession of two firearms, the defendant had just testified that the two firearms seized from him had been planted" on him by the arresting officers. An urgent trace of both firearms was requested. Our records disclosed that both firearms had been traced as part of Project "I". One firearm could not be traced due to its age. The other firearm had been purchased in Alabama by the defendant's wife one month before it was seized in the current case. This information was given to an amazed prosecuting attorney within ten minutes of his request.



## SUMMARY STATISTICS, PROJECT I

	New York City	Atlanta <sup>1</sup>	Detroit	New Orleans	Dallas	Denver	Kansas City	Oakland	Total <sup>2</sup>	Percent
Handguns received for trace	2,931	827	1,262	324	654	190	311	245	6,744	-----
Successfully traced	2,546	665	840	324	517	154	222	189	5,457	-----
Percent successful	87	80	67	100	79	81	71	77	81	-----
Number of class 1	628	130	84	8	77	33	64	45	1,069	-----
Number of class 2	417	152	210	97	59	32	45	28	1,040	19
Number of class 3	1,501	545	546	219	381	89	113	116	3,510	62
Number of semiautomatic pistols	628	137	176	97	92	35	63	39	1,267	23
Number of revolvers	1,918	690	664	227	425	119	159	150	4,352	77
Number with short barrel	1,938	671	568	227	397	95	145	149	4,190	75
Number with long barrel	608	156	272	97	120	59	77	40	1,429	25
Number of small caliber	1,636	561	672	166	352	59	136	118	3,735	66
Number of large caliber	910	266	168	158	165	60	86	71	1,884	34
Number of stolen guns	263	50	109	5	17	11	38	9	502	-----
Percent of stolen	10	8	13	2	3	7	17	5	-----	9
Saturday night specials	1,348	466	390	95	254	52	68	90	2,763	-----
Percent of total	53	56	46	29	49	34	31	48	-----	49
Number traced to out of State sources	1,956	128	770	47	67	34	145	49	3,196	-----
Percent of successfully traced	77	19	92	15	13	22	65	26	-----	59

<sup>1</sup> For analysis as to class, type, caliber, etc., the computation for Atlanta included 162 untraceable guns; in the other 7 cities the computations are based only on the successfully traced guns.

<sup>2</sup> Percentages in this column are based on a total of 5,619 guns (5,457 plus 162).

## SUMMARY STATISTICS, PROJECT I

	Miami/Dade County	Minneapolis/St. Paul	Philadelphia	Seattle	Total	Percent received for Total
Handguns received for trace.....	632	325	993	219	2,452	---
Successfully traced.....	436	216	571	129	1,401	---
Percent successful.....	69	66	58	59	57	---
Number of class 1.....	240	104	360	85	880	36
Number of class 2.....	88	33	210	36	440	18
Number of class 3.....	304	186	423	98	1,132	46
Number of revolvers.....	478	231	787	155	1,892	75
Number of semiauto pistols.....	153	86	201	63	591	24
Number of others (rifles—S/G).....	1	8	5	1	19	1
Number with 3 in barrel or less <sup>1</sup> .....	410	231	733	119	1,652	69
Number with over 3 in barrel <sup>1</sup> .....	218	80	251	93	735	31
Number with .32 caliber or less <sup>2</sup> .....	287	152	585	110	1,304	53
Number with over .32 caliber <sup>2</sup> .....	345	167	408	109	1,142	47
Number night specials.....	105	61	192	35	447	---
Percent of successfully traced.....	24	28	34	27	32	---
Saturday night specials.....	155	97	323	50	704	29
Percent received for trace.....	25	30	33	23	---	---
Number traced to out of State sources.....	80	31	265	31	453	---
Percent of successfully traced.....	18	21	46	24	32	---

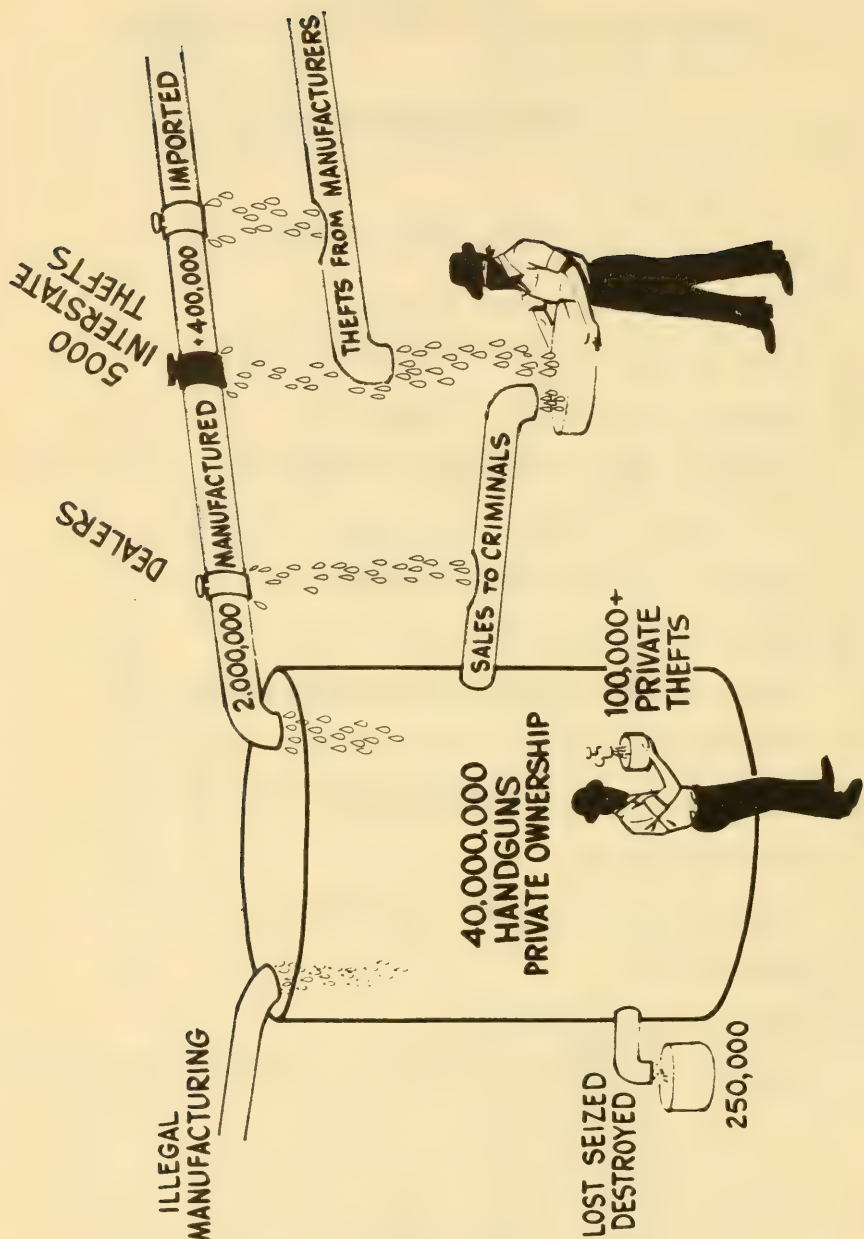
<sup>1</sup> Does not include 45 guns of unknown barrel length.<sup>2</sup> Does not include 6 guns showing gauge instead of caliber.

Note.—For the purpose of this report a Saturday night special is a handgun which has a barrel length of 3 in or less; a caliber of .32 or less and a value of \$50 or less. Firearms classifications: Class 1, value of over \$100; class 2, \$50 to \$100; class 3, \$50 or less.

## BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

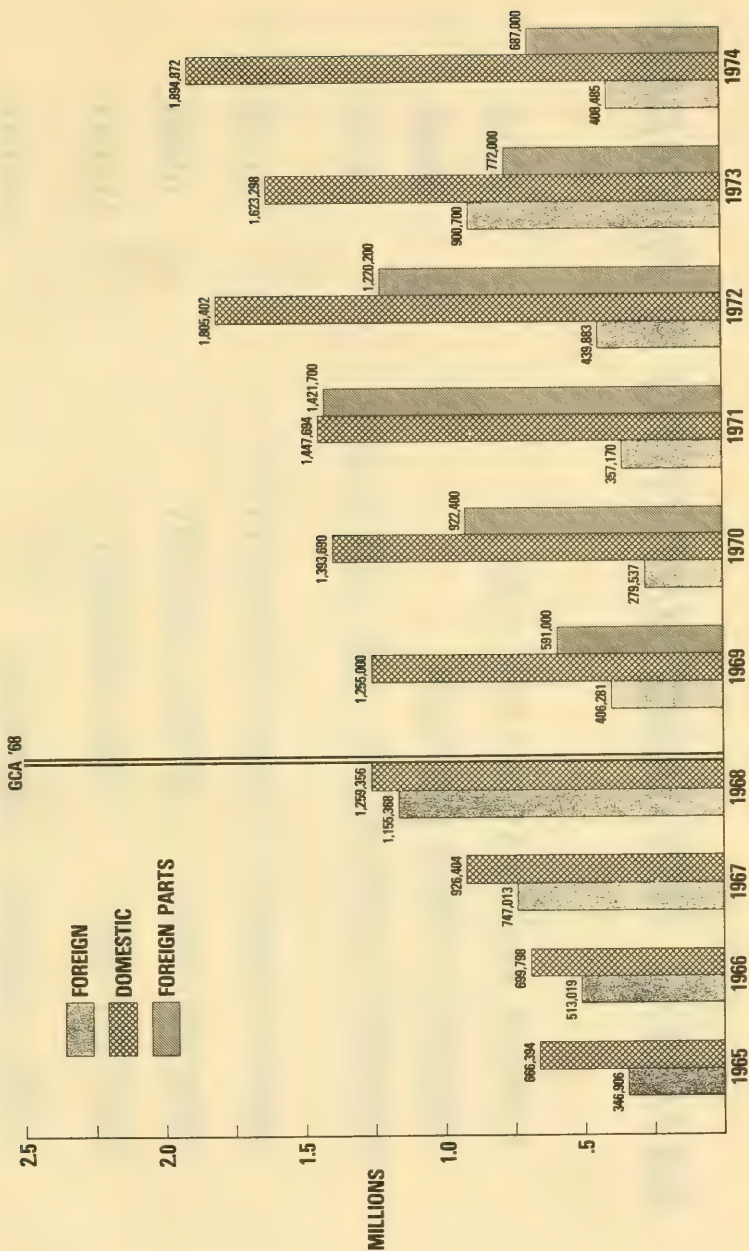
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# HANDGUNS - FOREIGN & DOMESTIC

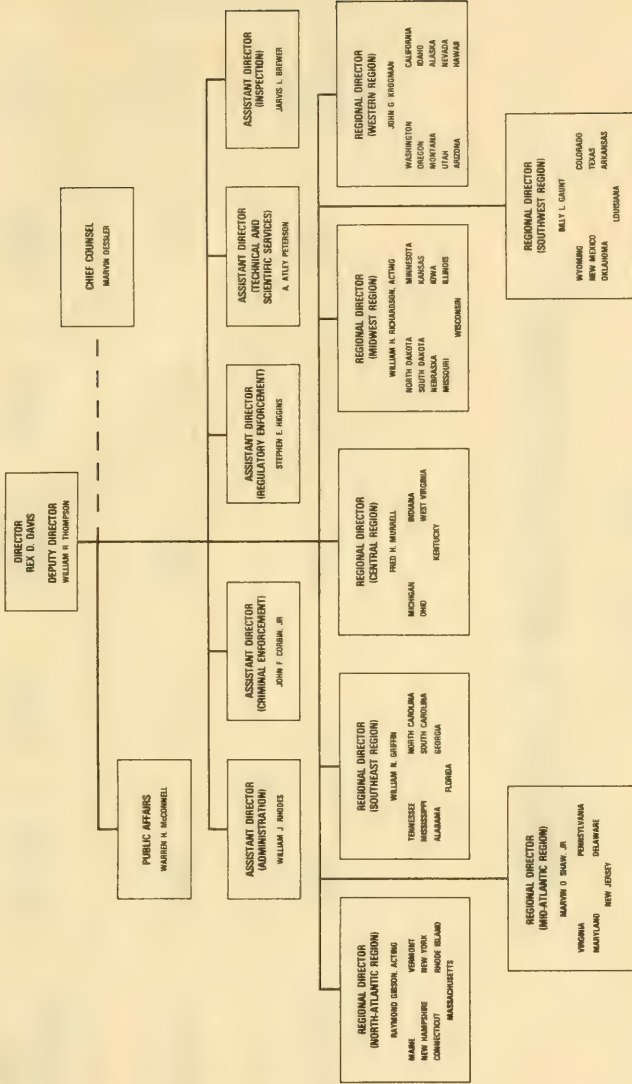


# ***NATIONAL FIREARMS ACT (TITLE II) FIREARMS***

AVERAGE REGISTRATIONS PER YEAR	85,000
AVERAGE EXPORTS PER YEAR	60,985
AVERAGE TRANSFERS PER YEAR (1971-1974)	8,476
REGISTRATIONS 1934 TO AMNESTY	60,000
REGISTRATIONS DURING AMNESTY	70,000
REGISTRATIONS SINCE AMNESTY	117,093
TOTAL CURRENTLY REGISTERED	247,093

# BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

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THROUGHOUT THE U.S. THERE ARE 20 DISTRICT OFFICES  
SUPERVISING THE CRIMINAL ENFORCEMENT OPERATIONS  
OF THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS. EACH IS  
THE HEAD OF EACH OF THE DISTRICT OFFICES.

A 01/7/78

# ***FIREARMS ARRESTS AND SEIZURES***

<b>FISCAL YEAR</b>	<b>1970</b>	<b>1971</b>	<b>1972</b>	<b>1973</b>	<b>1974</b>	<b>6 MOS. 1975</b>
<b>ARRESTS</b>	<b>1,957</b>	<b>2,223</b>	<b>2,507</b>	<b>2,258</b>	<b>3,123</b>	<b>1,740</b>
<b>FIREARMS SEIZED</b>	<b>33,683</b>	<b>7,881</b>	<b>7,142</b>	<b>5,981</b>	<b>6,625</b>	<b>6,522</b>



FIREARMS ARRESTS AND SEIZURES

This chart, which shows arrests and seizures by the Bureau of Alcohol, Tobacco and Firearms for the fiscal years 1970 through the first six months of 1975, contains several figures which need explanation.

The total of firearms seized in 1970, 33,683, is more than four times greater than the next highest number, 7,881 seizures in 1971. In 1970, the Bureau seized several firearms manufacturing plants, the seizures involving several thousands of firearms. A normal seizure per arrest in the years 1971 through 1974 averaged 2.8 firearms.

Arrests for firearms violations decreased approximately 10% in fiscal year 1973, from 2,507 in the preceding year to 2,258 in 1973. In 1974, they climbed 28% over 1973, reaching the numerical level which they would have reached if they had continued their normal 11% per year rise in 1973 and 1974.

Several factors are involved in this decrease (the only one in this table) and abnormally large increase the following year. In fiscal year 1973, ATF provided support to the Secret Service in protection details, because the first half of that year was a Presidential Election campaign year. A total of 26,595 man-days were expended on special details, the majority being assistance to the Secret Service. This represents approximately 5.7% of our total available man-days in that fiscal year, approximately four times the

amount spent on special details in a normal year. This graphically depicts the havoc wreaked on our normal enforcement programs when we are faced with an unusual manpower drain. In providing protection assistance, we lost primarily our most experienced, aggressive and productive special agents, from a force of about 1,600.

The chart reflects a normal increase in arrests of approximately 11% per year. This can be attributed to the fact that, beginning in fiscal year 1970, our newer special agents had just reached the level of experience where they began to be independently productive. Since then, our special agent work force has declined in numbers, but constantly improving investigative ability enables us to continue to increase our number of arrests per year.

This will no longer hold true, however, assuming that we will continue to operate with the same or further reduced force of special agents.

With the Bureau's recently acquired responsibilities under the Federal laws relating to wagering, we will be required to divert man-years normally expended on the firearms program to the wagering program. Simultaneously, fiscal year 1976, another Presidential Election year, will again require that we provide assistance to the Secret Service. We can therefore expect some decrease in firearms arrests in that year.

With our total special agent complement of approximately 1,600, we realize that we cannot significantly reduce the amount of firearms in circulation or make a significantly large number of arrests per year (taken in the context of overall firearms seizures and arrests nationwide), but through a very selective enforcement criteria, we believe that we can reduce the number of firearms in criminal hands.

In fiscal year 1975, we implemented the "Significant Criminal Enforcement Program - Armed and Dangerous" to enable us to concentrate our efforts where they are most needed. By strict adherence to the criteria of this program, we intend that our arrests and seizures provide the greatest possible impact on crime in the United States.

## Recent Noteworthy Firearms Cases

On October 2, 1974, Henry H. Kincheloe, a convicted murderer and burglar attempted to kill an Amarillo, Texas Police Officer who had testified against him in a prior criminal case. Shortly after this attempt, an ATF Special Agent discovered that Kincheloe had purchased a firearm and had executed a Form 4473 in connection with this purchase. Based on this information, a Federal arrest warrant was obtained and was served on Kincheloe as he drove up to his residence. During the course of this arrest, Kincheloe attempted to fire a .25 caliber pistol at the arresting officer and a subsequent search of his residence uncovered three additional firearms.

Kincheloe is presently in jail and an indictment is being prepared charging Title VII violations against him.

On November 27, 1974, the ATF New York City Office arrested ten individuals who had been engaged in the illegal sale of non-serialized handguns which had been stolen from the premises of a legitimate firearms manufacturer. Approximately 135 handguns had been



purchased by undercover Special Agents. Over two hundred assembled and unassembled handguns and a 26 foot Chris Craft Yacht were seized. These arrests closed an illegal handgun factory located in Bronx, New York.

An undercover ATF agent at Houston, Texas, contacted the Alpine Bonding Company in Houston on May 9, 1974, after receiving information they fenced stolen guns. The Special Agent asked him for two machineguns to "use in a bank robbery." William Harrison, an employee of Alpine, introduced the undercover agent to Smith saying he, Smith, could furnish such weapons. During this discussion Smith asked the undercover agent to kill his ex-wife and offered him the two machineguns, plus \$4,000 to do so. ATF, in conjunction with the Harris County Sheriff's Office, contacted Smith's ex-wife and made arrangements to pretend the execution had taken place. Shortly thereafter, Smith believing the execution had occurred, forwarded \$2,000 to the undercover agent through his associate.

During the period between December 1973, and August 1974, information was received that Edward L. Rhodes, an alleged Black Muslim, was involved in the commission

of armed robberies and firearms burglaries in California, Texas, Louisiana, Alabama and Georgia. ATF joined State and local authorities in this investigation which eventually involved a five State area and substantial ATF manpower disbursements.

On August 19, 1974, Rhodes was arrested in New Orleans, by ATF local and State authorities following days of surveillance and a comprehensive multi-state investigation. At the time of his arrest evidence was obtained indicating Rhodes' involvement in three large gun burglaries, four major armed robberies, as well as a Title I and Title II violation. Federal charges are now pending and Rhodes is in State custody awaiting trial on Robbery, Auto Theft, and Burglary Counts.

From November 1973, through January 1974, the Kirkwood brothers possessed, sold, trafficked, and delivered stolen firearms and explosives. Some of these firearms were stolen from a dealer in West Virginia, and some of the explosives were stolen from the Quantico Marine Base. As a result of an ATF undercover investigation, the following items were purchased or seized: 1 AK-47 machinegun and ammo; 1200 rounds of .45 caliber ammo; 15 handguns (7 stolen); 5 long guns; 6,900 rounds of 7.62 MM ammo; 3,600 rounds of .38

caliber ammo; 1,600 rounds of 5.56 MM ammo; 00 buckshots; M-16 selector switches; 5 lbs. C-4 explosives; 2 lbs. TNT, 26 electric blasting caps; detonator cord w/boosters; and fuse cord w/ignitors.

Each of the Kirkwoods received 10 year prison sentences, as a result of this investigation. James Leathers received a 2 year prison sentence in Virginia.

This case was a significant criminal investigation and terminated with the arrest of Barry L. McFarland and five associates by the San Luis Obispo County Sheriff's Department and ATF. The case originated when an informant introduced an undercover Special Agent to one of the suspects who was offering firearms for sale. Several firearms were purchased in June 1974, and from then until November 1974, 25 firearms were purchased from Barry McFarland and four of his associates. Along with the last firearms purchased, other property including a chain saw, a stereo outfit, binoculars, and a tape deck were purchased with money from the Sheriff's Department. Twenty-three of the firearms were identified as property taken in numerous burglaries in San Luis Obispo County. All of the defendants arrested have been suspects in burglaries committed over the past two years.

A 23 count complaint was filed by the San Luis Obispo County District Attorney's Office and all defendants are in custody with bail set between \$10,000 and \$15,000 for each. When bail is met by the defendants, each will be arrested by ATF for violation of Title 18, Section 922(a) (1), engaging in business as a firearms dealer without having a license (warrants on file). This will be done at the request of the U. S. Attorney's Office.

On May 16, 1974, and on through the present day, Special Agents of the Los Angeles and San Francisco District Offices have been involved in an investigation of the movement of the Symbionese Liberation Army from the San Francisco area to the Los Angeles area. Included in this investigation have been 20 gun traces of firearms obtained at 54th Street and Compton Blvd., Los Angeles, California, a stronghold of the SLA which was raided by the LAPD Special Weapons and Tactical Units on May 17, 1974. These firearms were traced to local gun shops in the Oakland area. The complete reconstruction of one of the automatic weapons involved, by an ATF Special Agent has helped the LAPD Firearms Unit in determining the capabilities of these weapons as well as others. Many of the guns traced so far have come back to SLA members and/or associates. Members of the SLA including Patricia Hearst are still at large.



The Richmond, Virginia, ATF Office is preparing a case recommending the prosecution of Federal fire-arms licensee Ellis Reed. He is alleged to have committed 826 violations of the Gun Control Act of 1968. These violations include 50 separate out-of-state sales. Preparation of 112 false Forms 4473, 357 instances of failure to keep required records and 166 instances of failure to prepare Form 4473.

In February 1974, 28 persons were indicted by a Federal Grand Jury in the Southern Judicial District of Springfield, Illinois, culminating an extensive undercover investigation by ATF Special Agents which spanned the previous years. During the investigation, ATF Agents successfully penetrated this theft ring and were able to gather incriminating evidence proving this ring was responsible for thefts from the railroads estimated at 1.7 million dollars.

In October 1974, a Federal Jury in Alton, Illinois, found the last 10 of the 28 defendants guilty of violations of the Gun Control Act of 1968, conspiracy to commit theft from interstate shipments and receiving and possessing stolen goods.

The other 18 defendants had previously either entered pleas of, or were found, guilty.

SUBJECT: Ralph Thomas Oates - Defendant  
Nashville, Tennessee

This report relates to violations of the Gun Control Act of 1968 by Ralph Thomas Oates, who is charged with possession of a firearm during the commission of a federal felony (Section 924 (c)(2), Title 18, USC).

On January 2, 1975, in Nashville, Tennessee, Special Agent H. Joe Lanford of the Nashville ATF office, was assisting Federal Drug Enforcement Agents in an undercover buy of narcotics. Special Agents had set up a surveillance of the Harpeth Hill Golf Course and Country Club and had observed two DEA Special employees pull into the parking lot of the golf course at about 5:40 p.m. At about 5:45 p.m. the defendant, Ralph Oates, arrived and met with the two Special employees. The defendant then produced a quantity of drugs for which he was paid \$1,000.00. At this time, Special Agents approached the defendant and identified themselves as Federal Agents. The defendant then began to reach into his coat and move backward. Special Agent H. Joe Lanford quickly placed the defendant under arrest and removed a loaded Mauser semi-automatic pistol from the waistband of the subject. A suitcase containing an additional \$15,000.00 worth of drugs was removed from the trunk of the subject's automobile. The defendant is alleged to have been selling drugs in several other major cities. A search warrant, executed at the home of the defendant later that evening, recovered additional firearms and drugs. As a result of the search warrant, the defendant's wife, Linda Oates, who is on parole for a

murder conviction, was found in possession of a firearm. She has since been indicted for violation of Title VII of the Gun Control Act and is awaiting trial on that charge.

On March 14, 1975, the defendant, Ralph Oates, pled guilty to all counts and received five years on the narcotic charge and 18 months on the Federal gun violations. All sentences were suspended and the defendant has received six years probation.

2419-0973-7002-S

FAY, Walter, Edward: KASPUTIS, William Thomas:  
KASPUTIS, Norman Francis: WHITE, Irene

This investigation, which culminated with the arrest of all four defendants during April 1974, dealt with a Massachusetts bank robbery gang who had been very active in large scale bank and commercial robberies. ATF began concentrated investigations when the group became prolific in the use of sawed-off shotguns and submachine guns during their holdups.

Working jointly with the Massachusetts State Police and Worcester Police, ATF Agents began surveillance and undercover probes which initially resulted in two female members of the gang cooperating with authorities.

Between August 27, 1973, and April 26, 1974, Agents and local authorities developed cases against all four defendants and seized one sawed-off shotgun which was cut down by the defendants, one 9 mm MP-44 submachine gun, one .22 caliber Marlin rifle and one .44 Ruger rifle.

Based on information supplied by an ATF undercover agent, it was determined that these weapons had been used in an August 9, 1973, Westboro, Massachusetts bank robbery and an August 21, 1973, Auburn, Massachusetts bank robbery. The undercover agent also obtained the confidence of a leader of the gang who admitted involvement in multiple major robberies as well as detailing



his trafficking in illegal firearms.

This cooperative investigative effort resulted in the clearance of approximately 11 armed robberies, the arrest by State authorities of five additional persons involved and the clearance of approximately \$50,000 of stolen check cases.

On December 10, 1974, Norman KASPUTIS was found guilty of possession of a machine gun, Title 26, 5861. Walter FAY is pending court action on his charges at this time; William KASPUTIS was found not guilty and Irene WHITE was released upon a directed acquittal by the court.

These same individuals are presently awaiting trial action in Massachusetts State courts.

Pa. M-2321 (T-II)  
GRAF, James R.: GRACE, Stephen E.:  
MATHEWS, Steven A.: PYLE, Dennis E.

All four charged with violation of  
Title II, GCA, (Title 26, 5861); and  
Title I, GCA, (Title 18, 924)

On March 9, 1971, an ATF Special Agent, while in an undercover capacity, received information that certain persons were selling military hand grenades in the Harrisburg, Pennsylvania area. The Agent, upon pursuing the information, was able to meet James GRAF and Dennis PYLE, who offered to sell the undercover agent 15 grenades as well as 18 M-16 military assault rifles.

Negotiations continued through March 22, 1971, when arrangements were made to purchase a military M-79 grenade launcher with three live 40 mm grenades. During this purchase, GRAF offered to sell the undercover agent a large number of automatic weapons and on March 26, 1974, GRAF, MATHEWS and GRACE delivered to the undercover agent 99 M-16 full automatic assault rifles in a wooded area off the Pennsylvania turnpike. At this time, ATF Agents arrested GRACE, GRAF and MATHEWS and later PYLE for violation of Title 26, Section 5861, Title 18, Section 924 and Title 18, Section 641.

The subsequent investigation revealed that all four had burglarized the New Cumberland Army Depot near Harrisburg, Pennsylvania and stole the M-16s and grenade launcher. GRACE, GRAF and MATHEWS were serving as enlisted men at this facility.

On January 20, 1972, Stephen GRACE was sentenced to six months imprisonment and Dennis PYLE was given three years probation. On February 28, 1972, Steven MATHEWS was sentenced to two years confinement and James GRAF was given two years probation.

PEN GUN CASE

Daniel Benton Denning (FFL Dealer and Gunsmith) was ~~arrested on 2-28-75~~, as a result of an undercover investigation. A Federal Search Warrant was executed at the Denning Arms and Tool Works, Mitchellville, Sumner County, Tennessee and 25, .32-caliber pen type guns were seized. The pen guns were being made by Denning in the rear of the shop. They were of good quality, black oxide finish, 5½ inches long. Two pen guns were purchased undercover prior to the seizure. Estimate a total of 50 guns to have been made prior to the seizure. Denning was carried before the US Magistrate, Nashville, ~~Tennessee on 3-3-75~~ and released under bond pending Grand Jury action for violation of T-II manufacturing and possessing firearms (any other weapon). The seizure receiving substantial news and TV coverage. In the joint raid and seizure ATF was assisted by the Sheriff's Department and TBI Agents. Original information was developed by a Deputy Sheriff and investigation was carried out by ATF.



Pen Gun Seizure, May 1974  
Detroit District Office

Subject: U.I. 3105-0474-0066 G, Klein, Michael Anthony, Vergis, Manuel

During the later part of April 1974, Special Agent Dikily, operating in an undercover capacity met and successfully penetrated a non-licensed firearm operation centered around the Vermid Grinding Company, 25503 John R, Madison Heights, Michigan. This investigation culminated on May 1, 1974 with the arrests of the above mentioned subjects and the seizure of 1540 pen guns (any other weapon category) and hundreds of miscellaneous parts.

In addition to the pen guns, a sawed-off shotgun was purchased during the course of this investigation from Manuel Vergis. The investigation disclosed that the Vermid Grinding Company produced the bolts and firing pins, but purchased the necessary springs from a source unknown. Several items incorporated into making these firearms were contracted out to other companies. The body of the firearm, or tubes, and trigger screws were manufactured by D & C Mfg Co., Warren, Michigan. The end caps were made by the Pallas Screw Production Co., 1100 US 25, Harbor Beach, Mich. The two companies were unaware of the ultimate purpose of their manufactured items for the Vermid Grinding Co.

It was the conclusion of the undercover agent that the pen guns did not reach street sources or the general public in any large quantities. That conclusion was based on the total of items produced for Vermid by the D & C Mfg Co. and Pallas Screw Co., and invoices held by those firms. Both subjects, Klein and Vergis, were indicted on seven counts and a trial date has been set for March 25, 1975.

PEN GUN CASE

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# ***FIREARMS DEFENDANTS - JUDICIAL PROCESS***

FISCAL YEAR	1970	1971	1972	1973	1974	6 MOS. 1975
PROSECUTION RECOMMENDED	3212	3473	4437	3677	4671	1151
DECLINED	1231	1203	1441	1301	892	233
INDICTED	1309	1906	2645	2535	3243	773
ACQUITTED	57	114	168	118	132	30
CONVICTED	577	1156	1567	1927	1314	577



FIREARMS DEFENDANTS - JUDICIAL PROCESS

This chart shows the number of persons against whom the Bureau of Alcohol, Tobacco and Firearms perfected prosecutive cases in the years shown.

The category "Prosecution Recommended" is the total number of prosecutive defendants in a given year. The totals for "Declined", "Indicted", "Acquitted" and "Convicted" for each year do not necessarily reflect dispositions of those particular defendants recommended in that year, as there is a carry-over from preceding years. This depends on the amount of time between the recommendation for prosecution and some judicial or extra-judicial disposition.

A defendant, once recommended for prosecution for a firearms violation may be released without prosecution on this charge for a variety of reasons such as, non-indictment by a Grand Jury, incorporation in a consolidated case involving other charges, or by declination. This chart shows release without prosecution only where it is declined on the basis of the United States Attorney's judgment.

Successful prosecution of defendants recommended for prosecution is, of course, subject to the legal soundness of the related evidence and conformance with Justice Department prosecutive guidelines; however, beyond this factor, ATF has little or no control over the eventual outcome of the judicial proceedings.

# RELIEFS FROM FIREARMS DISABILITIES

(CALENDAR YEARS 1969 - 1974)

YEAR	GRANTED	DENIED	INELIGIBLE	TOTAL
1969	120	39	20	179
1970	297	153	47	497
1971	421	134	82	637
1972	636	210	80	926
1973	596	227	85	908
1974	577	236	76	889
TOTAL	2,647	999	390	4,036

TOTAL CURRENTLY UNDER INVESTIGATION — 698  
APPROXIMATELY 20 MAN-HOURS PER INVESTIGATION

# APPLICATION OF MANPOWER TO FIREARMS

303

	DIVISION STATUS UNDER IRS					BUREAU STATUS			
	1968	1969	1970	1971	1972	1973	1974	1975 (EST.)(EST.)	1976 (EST.)(EST.)
TOTAL AGENT MANPOWER AVAILABLE	985	1047	1211	1389	1630	1622	1576	1570	1558
AGENT MANPOWER APPLIED TO FIREARMS	214	442	700	810	911	952	1058	1082	1105
INSPECTOR MAN- POWER APPLIED TO FIREARMS *	—	—	—	—	—	3	34	65	112

\* Decision to transfer compliance activity to regulatory enforcement

# **FIREARMS APPLICATION AND COMPLIANCE TIME** **MAN DAYS**

FISCAL YEAR	1970	1971	1972	1973	1974	6 MOS. 1975
APPLICATION INV.						
SPECIAL AGTS. INSPECTORS	5,872	7,732	12,337	9,049	5,784	1,317
TOTAL	5,872	7,732	12,337	9,326	10,786	4,595
COMPLIANCE INV.						
SPECIAL AGTS. INSPECTORS	2,415	8,124	10,815	6,409	4,970	784
TOTAL	2,415	8,124	10,815	7,238	6,665	1,764

# **FIREARMS TIME - CALENDAR YEAR 1974** **MAN DAYS**

APPLICATION AND COMPLIANCE	14,016
OTHER FIREARMS RELATED DUTY (TITLES I - II - VII)	86,066



FIREARMS APPLICATION AND COMPLIANCE TIME

This chart shows the time spent on APPLICATION INVESTIGATIONS and COMPLIANCE INVESTIGATIONS by Criminal Enforcement Special Agents and by Regulatory Enforcement Inspectors, as well as the TOTAL of their combined time for each type of investigation.

The APPLICATION INVESTIGATION is the initial contact with the applicant for license and is conducted to determine if the applicant meets the statutory requirements for being issued a firearms license.

A license must be issued if the applicant:

1. is 21 years of age or over
2. is not prohibited by law from shipping, transporting or delivering any firearms or ammunition in interstate or foreign commerce
3. has not willfully violated the Gun Control Act or regulations thereunder
4. has not willfully falsified or failed to disclose material information required on his application
5. has a premises from which the firearms business will be conducted within a reasonable period of time

The COMPLIANCE INVESTIGATION takes place after the firearms license is issued and is conducted to determine if the licensee is carrying on the business according to law and regulation. Among the many factors checked in such an investigation, the following are principal considerations:

1. Is the license issued appropriate for the class of firearms business being conducted.
2. Do the firearms records accurately reflect all firearms received, disposed, and in inventory.
3. Are the Forms 4473, Firearms Transaction Records complete and reflect lawful dispositions.

The time spent on an individual APPLICATION or COMPLIANCE investigation is susceptible to wide variations because of factors such as:

1. Possible criminal record of applicant or licensee.
2. Class of business (a licensee selling ammunition only requires far less time than a licensee selling firearms).
3. The volume of business conducted and consequent records and firearms to be examined.
4. Discovery of violation or nonconformance (a sampling examination of firearms and records may suffice where no discrepancies are found; however, a finding of discrepancies may compel an in-depth examination of all records and firearms).
5. The degree of orientation necessary to properly inform a licensee and bring him into compliance with law and regulation.

During the earlier years of implementation of GCA 1968, Application and Compliance Investigations were performed almost exclusively by Criminal Enforcement Special Agents because of their experience in firearms matters and the limited availability of Regulatory Enforcement Inspector manpower. In August 1973, Regulatory Enforcement was delegated responsibility for this activity; however, Criminal Enforcement, necessarily, continued to carry most of this workload because infusion of Regulatory manpower was limited, within each Region, to what could be spared from other activities. The chart shows gradual assumption of this activity beginning in FY 1973 and the phased reduction of Criminal Enforcement manpower to the point in FY 1975, where Regulatory Enforcement is

carrying most of this workload. The planned Regulatory Enforcement assumption of the total Application and Compliance workload by the end of FY 1977 is based on requests for additional manpower, 65 man years in FY 1975, 76 during FY 1976 and 77 during FY 1977.

The chart also capsulizes manpower spent on firearms during calendar year 1974, and shows that 14% of the manpower devoted to firearms matters comes under the Application and Compliance Investigation category. The "Other Firearms Related Duties" category (86% of total firearms time) relates exclusively to Criminal Enforcement activities in the enforcement of Titles I and II of the Gun Control Act and Title VII of the Omnibus Crime Control and Safe Street Act of 1968.

# ***FIREARMS APPLICATION AND COMPLIANCE INVESTIGATIONS MADE***

<b>FISCAL YEAR</b>	<b>1970</b>	<b>1971</b>	<b>1972</b>	<b>1973</b>	<b>1974</b>	<b>6 MOS. 1975</b>
<b>APPLICATION INV.</b>						
<b>SPECIAL AGTS.</b>	30,874	20,026	31,239	21,683	18,132	6,599
<b>INSPECTORS</b>	-0-	-0-	-0-	49	9,351	5,925
<b>TOTAL</b>	30,874	20,026	31,239	21,732	27,483	12,524
<b>COMPLIANCE INV.</b>						
<b>SPECIAL AGTS.</b>	21,234	23,613	31,100	15,642	13,034	3,941
<b>INSPECTORS</b>	-0-	-0-	-0-	361	2,717	1,750
<b>TOTAL</b>	21,234	23,613	31,100	16,003	15,751	5,691



The number of APPLICATION and COMPLIANCE investigations shown here are reasonably consistent with the man-days applied for fiscal years 1972 to date. However, an unusual picture is presented in comparing the number of investigations made in fiscal years 1970 and 1971 with the man-days applied since such a comparison portrays a very large number of investigations being conducted with minimum time application. During these periods, we were faced with a deluge of applications following passage of the Gun Control Act and were compelled to make very brief investigations in order to fulfill the statutory requirement that an application be acted upon within 45 days after filing.

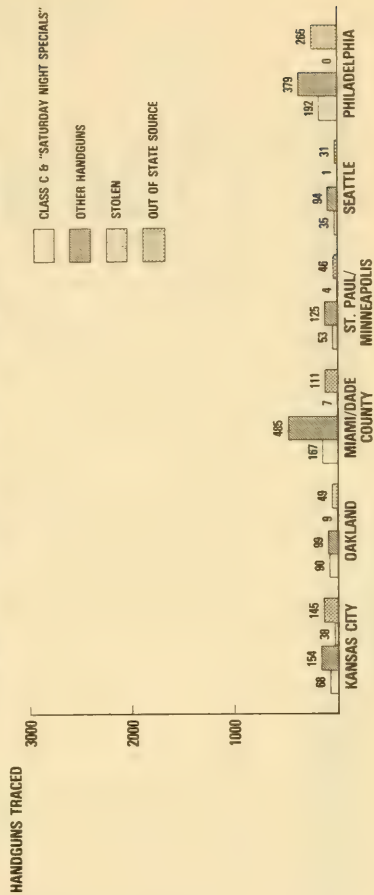
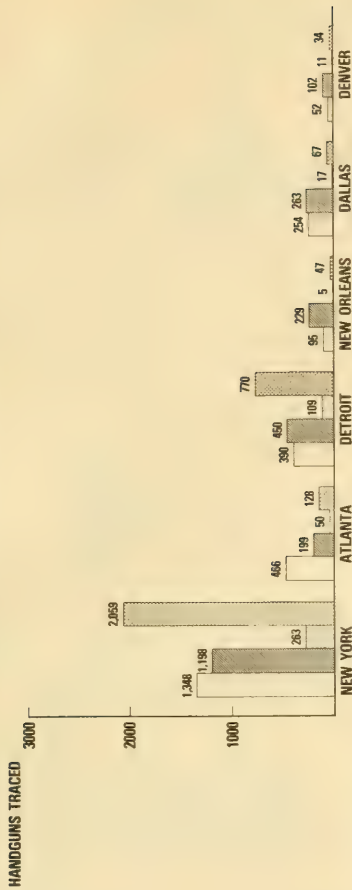
# ***FIREARMS LICENSE ACTIVITY***

310

		FY-70	FY-71	FY-72	FY-73	FY-74
<b>APPLICATIONS RECEIVED</b>	<b>ORIGINAL</b>	27,866	23,826	24,112	24,231	24,873
	<b>RENEWAL</b>	111,008	125,386	125,689	127,911	133,880
	<b>TOTAL</b>	138,874	149,212	149,801	152,142	158,753
<b>LICENSES ISSUED</b>		138,865	144,548	147,026	148,600	156,443
<b>LICENSES DENIED*</b>		2,512	1,032	1,683	1,669	1,540
<b>LICENSES REVOKED</b>		8	7	42	12	17

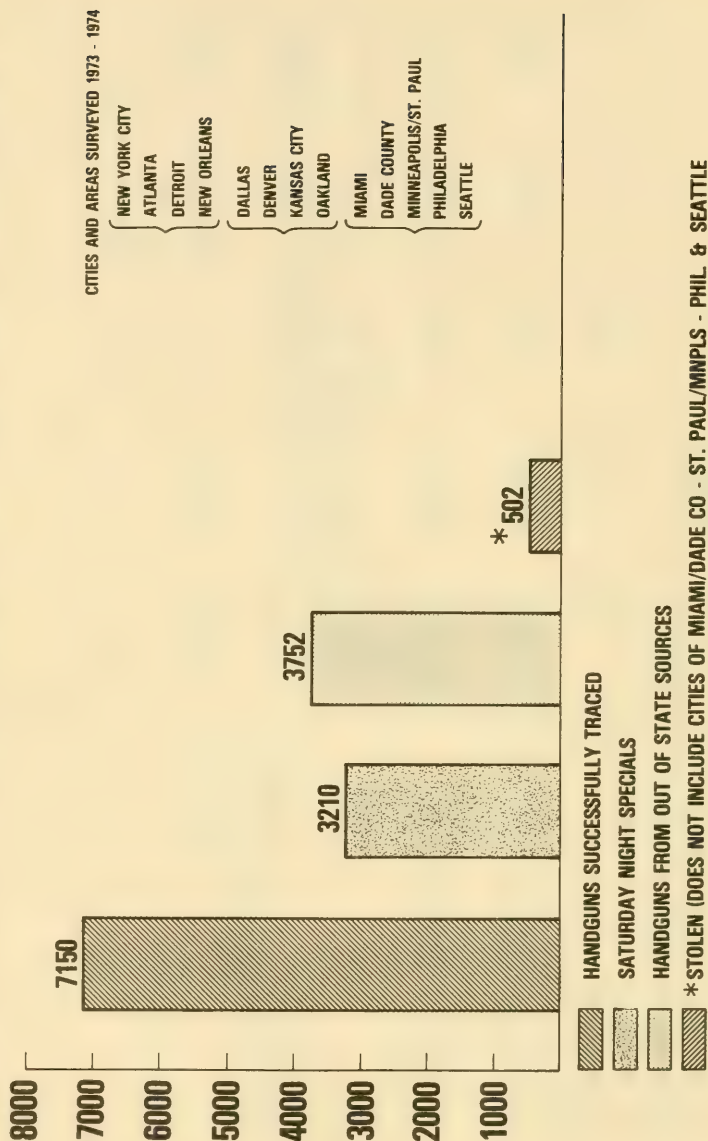
\*Includes abandoned, withdrawn, and denied.  
In 1st half of FY-75, 14,334 original applications received.

# PROJECT "I"



# PROJECT I

## COMPOSITE GRAPH OF ALL CITIES SURVEYED





## Project Identification

### Introduction

*Project Identification* is another step in the long-range goal of the Bureau of Alcohol, Tobacco and Firearms to identify and close the sources from which criminals obtain their guns, and to determine the types of guns being used in crime.

To perform this task, ATF used the facilities of its National Gun Tracing Center where gun tracers are constantly in touch with every firearms manufacturer in the United States, as well as all major foreign manufacturers. Bilingual tracers make this possible.

Police Departments of the cities involved furnished ATF with the serial numbers of all handguns seized in crimes in their cities from July to December of 1973. ATF took these serial numbers, and starting with the manufacturers of the guns, traced the ownership history of the weapon step-by-step.

The method is not new since it was done previously on a small scale in various cities in the United States by ATF agents. Successful traces proved the validity of using the firearm itself as the starting point.

Since 1958, the Federal Firearms Act has required that each high powered rifle and each handgun bear the name of its manufacturer, its caliber and an identifying serial number. Shotguns and .22 caliber rifles were excluded.

However, the Gun Control Act of 1968 broadened this requirement to include shotguns and rifles. Imported guns came under the same requirements, with the exception that it was necessary also to include the importer's name on the gun.

Manufacturers, importers and dealers always have been required to keep information concerning the person or firm to whom they sold firearms. However, the Gun Control Act of 1968 requires far more information concerning the buyer. Records of the retail dealer now reflect the name and address of the buyer, his physical description, and a notation as to the type of identification the buyer provided. In addition, the buyer must sign the transaction form.

This information facilitates the tracing of a handgun from manufacturer or importer to the retail outlet where the gun is sold, to the purchaser.

By telephone, bureau gun tracers contact manufacturers, both domestic and foreign, and importers as the first step in the trace. The voluntary cooperation of these manufacturers and importers has been excellent. This cooperation and willingness to assist ATF in its

important duty of tracing guns used in crime has played a valuable role in the Bureau's successful gun tracing operation. In its first 15 months of operation, the ATF National Gun Tracing Center traced 25,968 guns. More than 12,000 of these traces were performed without charge at the request of more than 2,000 state and local law enforcement agencies in all 50 states.

At the retail outlet, the ATF special agent uses the dealer's records to determine the purchaser's identity. From there, the trail usually becomes more difficult as the gun may change hands several times before it reaches the person who uses it in a crime. Often the trace shows that the retail purchaser was the most recent owner of the gun and within minutes the police have the name and description of a suspect to the crime.

### Background

During the early part of 1970, an ATF agent in New York City purchased on the streets a small handgun of the caliber and size from which the term "Saturday Night Special" was derived. He paid more than \$100 for the gun. A trace of the gun disclosed that originally it had been sold by a retail outlet in South Carolina. Investigation revealed that several licensed dealers in South Carolina were working in collusion with North Carolina and New York City residents to transfer handguns illegally from one state to another. As a result, ATF brought charges against 17 persons. It was estimated that approximately 40,000 small, inexpensive handguns were involved in these illegal transactions. All of the dealers involved were convicted and put out of the retail gun business.

Following this, ATF proceeded with plans to study the scope of illegal handguns in several major cities, how criminals were acquiring these guns and what could be done. The study, called Project Identification (Project I), was begun in Detroit, Atlanta and New Orleans. The police department in each city was asked to provide ATF with a list of all firearms seized by the department during the six months from July, 1973, to December, 1973. ATF then traced the handguns. No long guns were traced.

Of the total number of serial numbers or descriptions received from the police departments, some of the guns were "untraceable" because records on these guns did not exist or were not available. The rest then were traced from manufacturer or importer to the last known retail outlet.

In August, 1973, New York Mayor John V. Lindsay asked that the ATF project be extended to include the City of New York because of the problem the police department was experiencing with handguns, in spite of existing strict laws in both New York City and the State of New York. His request was granted.

Project I was divided into two phases. During Phase I, the crime gun was traced to the last known retail outlet. During Phase II, the gun was to be traced from the last retail outlet to the criminal. The first phase of Project I in the first four cities now is completed. Phase II is

underway with agents working in the field on the step-by-step history of the guns. However, the first phase produced considerable revealing data on handguns used in crime.

### Type of Gun Used

In addition to the primary objectives of the project, the availability of specific data on more than 4,000 criminal handguns from four major cities made it possible to determine what type of handgun was used most frequently in the commission of crimes involving guns.

To accomplish this, the Bureau placed these handguns in classifications based on caliber, barrel length, whether automatic or revolver, and value and quality of manufacture (Figure 1).

Handguns of .32 or less caliber were classified as *small*; all others as *large*.

Those with a barrel length of three (3) inches or less were called *short*, and those over three inches, *long* (Figure 2).

To identify and determine the value and quality of the handguns surveyed, three classifications were used:

- Class A — The more expensive, higher quality handguns commonly used for law enforcement, collecting, sporting and target purposes of both domestic and foreign manufacture, with a retail price range of approximately \$100 or more.
- Class B — Handguns of medium price, medium quality range and generally used for sporting, personal protection, hunting and similar purposes of both domestic and foreign manufacture with a retail price range of approximately \$50 to \$100.
- Class C — Inexpensive handguns of low quality used primarily for non-sporting purposes and commonly referred to as "Saturday Night Specials" of both domestic and foreign manufacture, with a retail price range of less than \$50.00.

Federal gun laws do not define a "Saturday Night Special." However, in the use of the term by law enforcement officers throughout the United States, it is widely accepted to mean a small, cheaply made handgun of low caliber. For the purpose of the study, ATF defined a Saturday Night Special as a cheaply made handgun of .32 caliber or less, with a barrel three inches or less, and easily concealed in the palm of the hand or in a coat pocket.

However, since not all small guns are inexpensive and not all inexpensive guns are small, the problem of determining what percentage of the total guns traced fell in the category of Saturday Night Specials was resolved by taking the total number of guns in each of these three categories, adding the totals, and dividing by three to arrive at what was called a "composite" average. This figure, placed against the total guns traced, gave as accurate a percentage as could be achieved under the established classifications (Figure 3).

FIGURE 1. Composite Chart

PROJECT I (Handguns)

	<u>N.Y.C.</u>	<u>Atlanta</u>	<u>Detroit</u>	<u>New Orleans</u>	<u>Total</u>
Total handguns received for tracing	2,931	827	1,262	324	5,344
Number of guns traced	2,546	665*	840	324	4,537
Number of Class A (\$100 or more)	628	130	84	8	850
Number of Class B (\$50-\$100)	417	152	210	97	876
Number of Class C (less than \$50)	1,501	545	546	219	2,811
Number of automatics	628	137	176	97	1,038
Number of revolvers	1,918	690	664	227	3,499
Number of guns with barrels of 3" or less	1,938	671	568	227	3,404
Number of guns with barrels over 3"	608	156	272	97	1,133
Number of guns with .32 caliber or less	1,636	561	672	166	3,035
Number of guns with .38 caliber or over	910	266	168	158	1,502
Number of stolen guns	263	50	109	5	427

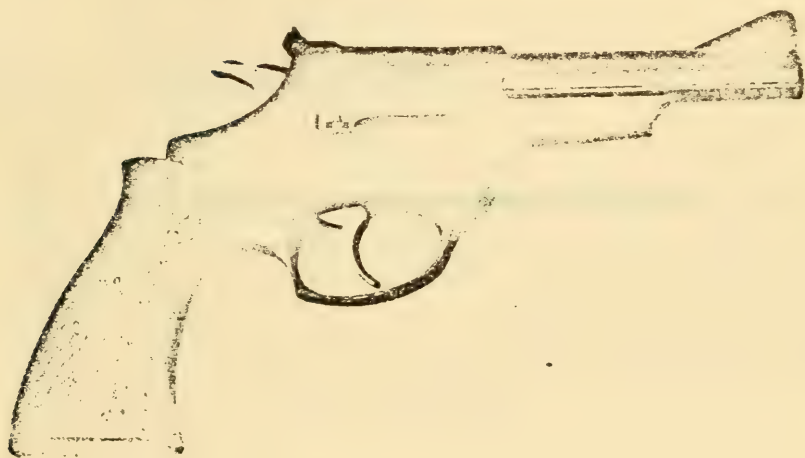
"SATURDAY NIGHT SPECIALS"

Number of Class C guns	1,501	545	546	219	2,811
Number of guns with barrels 3" or less	1,938	671	568	227	3,404
Number of guns with .32 caliber or less	1,636	561	672	166	3,035
Composite average	1,692	592	595	204	3,083
Percent of total guns traced	66%	88%	71%	63%	70%

\*For analysis as to type, size, caliber, etc., 162 untraceable handguns were included in the Atlanta Project.



FIGURE 2. Short and Long Handguns



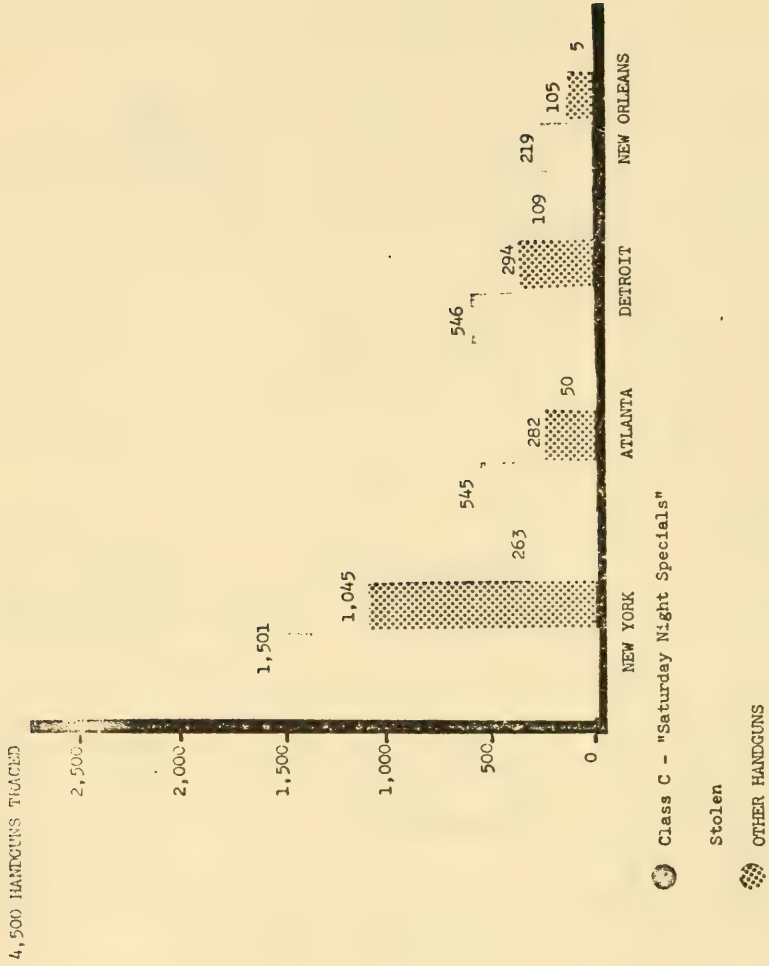


FIGURE 3. Comparison Chart

Of the 5,344 guns received from the four cities, 4,537 handguns were traced. Seventy percent of these were classed as Saturday Night Specials, that is, guns which cost less than \$50, had a barrel length of three inches or less, and were of .32 caliber or less. This type included approximately 66% of the 2,546 guns traced in New York City, 88% of the 665 guns traced in Atlanta, 71% of the 840 guns traced in Detroit, and 63% of the 324 guns traced in New Orleans.

Revolvers made up 77% of the total 4,537 guns traced. By city, the ratio of revolvers was 75% in New York City, 80% in Atlanta, 79% in Detroit and 70% in New Orleans.

### Theft Factor

Since passage of the Gun Control Act of 1968, there has been an increase of the overall theft of firearms, and particularly from interstate shipments. An ATF survey of the nation's trucking firms revealed that the trucking industry estimated monthly thefts to be as high as 1,000 guns a month. While this is not significant in view of the estimated 35 million handguns in the United States, it is important since a stolen firearm generally becomes a tool of the criminal.

In New York City, 263 of the 2,546 guns traced, or 10%, were stolen. In Detroit, the percentage was 13%, or 109 out of 840. The number stolen in Atlanta was 50, or 7%, and in New Orleans, 5 stolen guns were 1 1/2% of the 324 guns traced.

Both New York City and Detroit have strict city gun laws, which may have caused a higher percentage of criminals to resort to theft as a means of acquiring a gun as opposed to purchasing it, either from a licensed or unlicensed source.

Of the 263 guns identified in the New York City trace as stolen, 160 were expensive, high quality firearms. Most of these were stolen from shipments. This high figure for stolen, expensive guns may have been because higher quality, old line firearms are more widely known, and shipping cartons bearing such names as Colt, Smith-Wesson and Browning are more easily recognized by thieves. The rest were stolen from the premises of a dealer or manufacturer.

### Retail Source of Supply

As noted previously, the first phase of the study only concerned the identification of the retail source from which the handgun left legitimate commerce channels and became available to the criminal. It would be erroneous to conclude that because a large number of guns came from retail sources outside the state in which the city under study was located, that dealers involved were guilty of violating Federal gun laws. The dealer may or may not have been in violation. It is possible that the buyer was the guilty party, or that there was a dealer-buyer combination. That point was to be determined by Phase II.

Of the 2,546 guns traced in New York City, 2,048 came from 46 states and the District of Columbia (Figure 4). Of the out-of-state guns, 500 came from retail outlets in South Carolina and 124 of the 500 were

**FIGURE 4. Sources of New York City Handguns****PROJECT I**

South Carolina .....	500	Oklahoma .....	.9
Florida .....	273	Arkansas .....	.7
Georgia .....	214	Maine .....	.7
Virginia .....	169	Kansas .....	.6
New York .....	103	Massachusetts .....	.6
Texas .....	.83	New Mexico .....	.6
North Carolina .....	.80	Nevada .....	.5
Ohio .....	.73	Utah .....	.5
Pennsylvania .....	.47	Iowa .....	.4
California .....	.47	Oregon .....	.4
Alabama .....	.46	Washington .....	.4
Kentucky .....	.41	Delaware .....	.3
Illinois .....	.34	Wisconsin .....	.3
Connecticut .....	.33	Alaska .....	.2
Maryland .....	.32	Minnesota .....	.2
New Jersey .....	.28	Montana .....	.2
Tennessee .....	.28	Nebraska .....	.2
Louisiana .....	.27	Vermont .....	.2
Mississippi .....	.26	New Hampshire .....	.1
West Virginia .....	.22	North Dakota .....	.1
Missouri .....	.19	Rhode Island .....	.1
Arizona .....	.11	Hawaii .....	.0
District of Columbia .....	.11	Idaho .....	.0
Indiana .....	.11	South Dakota .....	.0
Michigan .....	.10	Wyoming .....	.0
Colorado .....	.9		2,048

part of the 40,000 small, inexpensive handguns estimated to have been illegally delivered to New York City during the 1969-1972 period. Following South Carolina as a source of supply for guns in the New York study were Florida (273), Georgia (214) and Virginia (169).

In New York City, where every gun owner must register with the police and be photographed and finger-printed, trafficking in guns is highly profitable. This is shown by documented cases in South Carolina where cheap handguns selling for \$20 each in volume were sold to persons in New York City for as much as \$150 each.



FIGURE 5. Sources of Atlanta Handguns

## PROJECT I

Georgia .....	537	Mississippi .....	3
Florida .....	19	Pennsylvania .....	3
South Carolina .....	14	West Virginia .....	3
North Carolina .....	9	California .....	2
Tennessee .....	8	Indiana .....	2
Alabama .....	7	Nebraska .....	2
Kentucky .....	7	Arizona .....	1
New York .....	7	District of Columbia .....	1
Ohio .....	6	Kansas .....	1
Missouri .....	5	Minnesota .....	1
Texas .....	5	New Jersey .....	1
Michigan .....	4	New Mexico .....	1
Illinois .....	3	Oklahoma .....	1
Iowa .....	3	Washington .....	1
Louisiana .....	3	Total .....	665

In Atlanta, it was found that of the 827 handguns to be traced, 162 were "untraceable" because of serial number removal, the dealer's records were no longer available, or other reasons. Of the remaining 665 handguns, 537, or 85%, originated in Georgia (Figure 5). Twelve licensed dealers in Atlanta were the retail source for most of these guns. The license of one large dealership was revoked, while another major dealer was no longer in business when the study was made. The remaining dealers were inspected to insure their compliance with the Gun Control Act of 1968. Only 14 of the 665 handguns in the Atlanta trace came from the adjoining State of South Carolina which was the prime source of handguns for New York City.

**FIGURE 6. Sources of Detroit Handguns****PROJECT I**

Ohio .....	157	Missouri .....	8
Kentucky .....	75	North Carolina .....	6
Georgia .....	74	Utah .....	4
Michigan .....	70	New Mexico .....	5
Mississippi .....	49	Iowa .....	3
Alabama .....	46	Alaska .....	2
Florida .....	37	Delaware .....	2
South Carolina .....	34	Massachusetts .....	2
Tennessee .....	32	Maryland .....	2
Arkansas .....	30	Minnesota .....	2
Texas .....	27	Kansas .....	2
Oklahoma .....	23	Oregon .....	2
Louisiana .....	23	Washington .....	2
Virginia .....	22	Wisconsin .....	2
Illinois .....	22	Connecticut .....	1
West Virginia .....	14	New Hampshire .....	1
Pennsylvania .....	13	New Jersey .....	1
New York .....	13	Rhode Island .....	1
Indiana .....	11	Nebraska .....	1
California .....	9	District of Columbia .....	1
Colorado .....	9	Total .....	840

The Detroit situation was somewhat different. There, the majority of the firearms was acquired outside the State by Michigan residents, but the acquisition was on a "one-to-one" basis and involved single gun sales as opposed to the person who buys large number of guns for resale. Only one unlicensed individual was identified as having transported more than 50 firearms into Detroit. He was arrested by ATF for conducting business as an unlicensed dealer. Of the 840 handguns traced in Detroit 157, or 18 1/2%, came from Ohio, with Kentucky (75), Georgia (74) and Michigan (70) each supplying approximately 9% of the gun seized. The rest of the guns came from the 31 other states (Figure 6).

FIGURE 7. Sources of New Orleans Handguns

## PROJECT I

Louisiana .....	201	Alabama .....	3
Texas .....	26	Arkansas .....	3
Mississippi .....	23	Maryland .....	3
Florida .....	10	Massachusetts .....	3
Georgia .....	7	Michigan .....	3
Illinois .....	7	New York .....	3
Kansas .....	7	Ohio .....	3
Kentucky .....	7	Pennsylvania .....	3
North Carolina .....	6	Washington .....	3
Minnesota .....	3	Total .....	324

In New Orleans, the ATF trace disclosed that 201, or 62%, of the 324 guns traced were sold in Louisiana. The guns came from 18 other states including Texas (26) and Mississippi (23) (Figure 7). In the New Orleans area (Orleans Parish), there is a local ordinance which prohibits the sale of firearms by dealers before the purchaser is investigated by the Police Department and the payment of \$5.00 for a permit. This apparently has caused many of the residents of Orleans Parish to go to other parts of Louisiana for their guns.

## Conclusion

There has been a great deal said by public officials and police administrators that the Saturday Night Specials—the low caliber, inexpensive, small handguns—make up the majority of firearms used by the criminal. This initial six months study, while confined to four major *Eastern* cities, supports those police observations. ATF next will perform similar traces in comparable cities in *Western* states. The Project I study will be extended to Dallas, Denver, Kansas City and Oakland.



OFFICE OF  
THE DIRECTOR

DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, D.C. 20226  
December 17, 1973

DEC 17 1973

REFER TO

Dear Member of Congress:

The attached press release announces the results of an initial study which we have conducted in New York, Atlanta, Detroit and New Orleans, in conjunction with the police departments of those cities, on the problem of handguns used in crime. It is placed at your disposal because we know of your concern over the use of firearms with criminal intent.

If you have additional questions concerning the study, please let us know.

Sincerely yours,

Rex D. Davis

Attachment



# Department of the **TREASURY** NEWS

## BUREAU OF ALCOHOL, TOBACCO & FIREARMS

Washington, D.C. 20224

202-964-6476



Public Information Office (202) 961-7268

ADVANCE FOR USE AT 2 P.M. MONDAY, DEC. 17, 1973 FY-74-15

(ADVANCE) WASHINGTON -- The Bureau of Alcohol, Tobacco and Firearms announced today that its pilot study of handguns used in crimes in four selected major cities showed 71 per cent of the weapons were the small, easily concealed "Saturday Night Specials".

ATF Director Rex D. Davis reported that of a total of 4,537 handguns which the Bureau traced through its National Gun Tracing Center, 3,240<sup>283</sup> or 70 per cent, were Saturday Night Specials.

The cities which provided handguns found in street crimes after July 1, 1973, were New York, Atlanta, Detroit and New Orleans.

"There has been a growing awareness by police officers throughout the nation that more and more of these small handguns are being used in street crimes," Davis said.

"However, statistics from this ATF generic study show concretely for the first time that a majority of guns used in crimes in these cities are Saturday Night Specials," Davis reported.

"It is likely that this use of the small handgun in crime represents a growing pattern throughout the United States. We hope soon to expand this gun tracing project to other cities, particularly in the Western United States, depending upon the availability of Bureau funds."

Davis said the study, called by the Bureau Project I (Identification), was carried out in connection with the police departments of each city. The figures showed that overall 10 per cent of the guns recovered in crimes

were stolen, and that there is a high rate of traffic in guns across state lines.

The initial phase of Project I was to identify the kind of guns being used in crime, and then begin the often difficult job of tracing the guns back to their source.

The second phase of the project is for ATF to close these sources of guns which find their way into criminal channels.

Davis said as a result of the pilot study, which was completed for New York City but which is continuing in Detroit, Atlanta and New Orleans, ATF either has made, or is preparing to make, 78 cases for firearms violations. These include 40 cases in New York, 22 in Atlanta, 12 in Detroit and four in New Orleans.

In addition, ATF turned over to the police departments in the cities involved considerable information as leads to other possible cases.

ATF arbitrarily placed the handguns in three categories. These were:

Class A - More expensive guns costing more than \$100 and more commonly used for law enforcement, collecting, sporting and target shooting.

Class B - Handguns costing \$50 to \$100 and used for sporting, personal protection, hunting and other purposes.

Class C - Those guns costing \$50 or less, of low quality with a barrel three inches or less in length. Most Saturday Night Specials fell under Class C.

For the purpose of the study, ATF defined a Saturday Night Special as a small, cheaply made handgun with a barrel three inches or less and easily concealed in the palm of the hand or in a coat pocket.

The number of Saturday Night Specials found in the New York study was 1,692, or 66 per cent. For Atlanta, the number of Saturday Night Specials was 592, or 72 per cent; for Detroit, there were 595 Saturday Night Specials, or 71 per cent; and the New Orleans study showed 204 Saturday Night Specials made up 63 percent of the total.

Of the total 4,537 handguns, the ratio of revolvers to automatics was about 3 to 1. There were 3,499 revolvers traced compared to 1,038 automatics.

New York City, which requires a police permit to possess a gun, is considered to have the strictest gun law in the United States. The major gun tracing effort came in the New York City study which involved 2,546 handguns recovered in street crimes there. ATF's gun tracers revealed that 1,966 of these handguns were brought into New York City from 46 states and nine foreign countries and involved guns of 89 different manufacturers.

Davis reported that a major source of this influx into New York City was six states--South Carolina 500; Florida 273; Georgia 214; Virginia 169; Texas 83 and North Carolina 80.

The report noted that as a result of 17 ATF investigations or cases made in South Carolina, the Bureau determined that 39,517 firearms were either actually involved in interstate violations or destined for disposition in New York or surrounding areas.

These 17 cases, which cover a period from 1968 to the present, are being handled with increasing severity by courts, Davis reported.

Of the 500 South Carolina handguns in the New York study, the report noted that two South Carolina dealers provided 124 of these firearms. Both of these dealers were arrested and convicted prior to the inception of the New York study, the report noted.

The study showed 29 states contributed to the number of guns found in Atlanta, although the majority, 537, originated in Georgia. Next in line were Florida with 19 and South Carolina with 14. Both of these states are contiguous to Georgia.

Of the handguns which originated in Georgia, ATF traced most of these to 12 licensed dealers in Atlanta. ATF found that one of the dealers was no longer in business. The license of a second dealer is being revoked. The other dealers are under investigation.

Of the Detroit guns, 157 were brought to the city from Ohio. Kentucky contributed 75, Georgia 74, Mississippi 49, Alabama 46, Florida 37 and South Carolina 34.

The state of origin of only 126 of the total number of handguns was determined in the New Orleans study. Seventy-nine guns, or 62 per cent, came from Louisiana. There were nine from Texas and eight from Mississippi. Sixteen other states contributed four guns or less.

The overall figures showed 10 per cent of the 4,537 was stolen. The New York City study showed 263 handguns of its study were stolen, or 10 per cent. For Atlanta there were 50 stolen guns, or 6 per cent; for

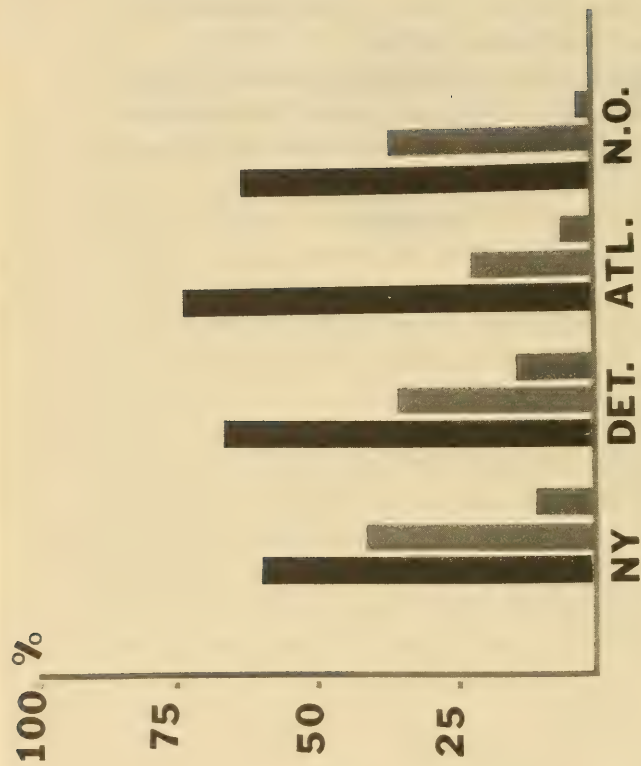


Detroit there were 109 stolen guns, or 13 per cent; and in New Orleans, there were 5 stolen guns, or 2 per cent.

All of the traces were made through ATF's National Gun Tracing Center in Washington. Traces are made through firearms manufacturers, wholesalers and retailers. The tracing for Project I was made to the last retail seller. Further tracing must then be made by investigating agents who go into the field for their work.

The Bureau of Alcohol, Tobacco and Firearms enforces all federal firearms laws, licenses dealers and manufacturers, and is the nation's only law enforcement agency empowered to trace firearms and explosives.

(End Advance)

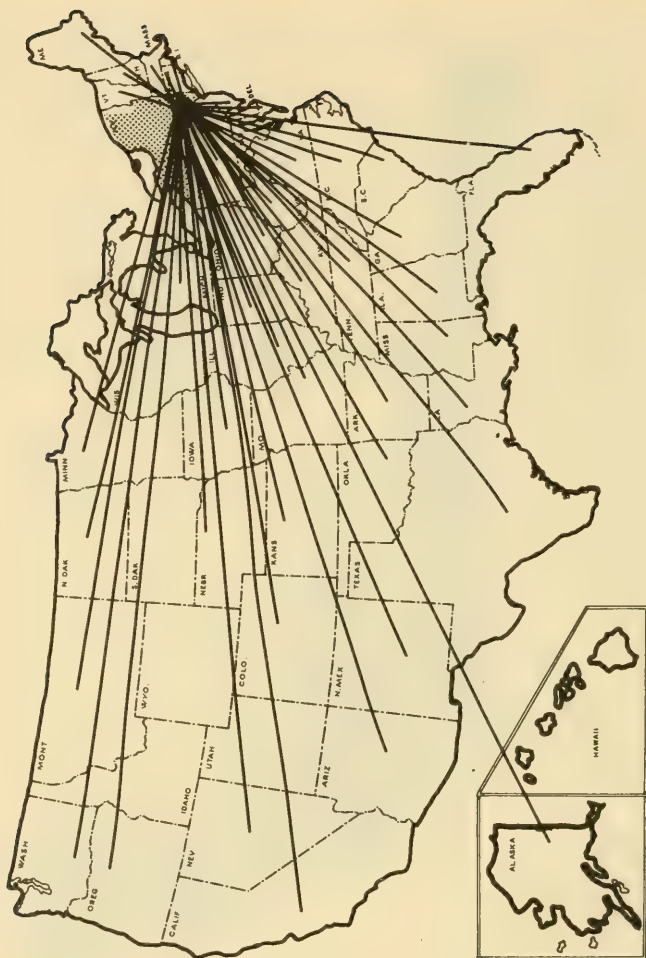


CLASS C -  
OTHER  
STOLEN



4500 HANDGUNS



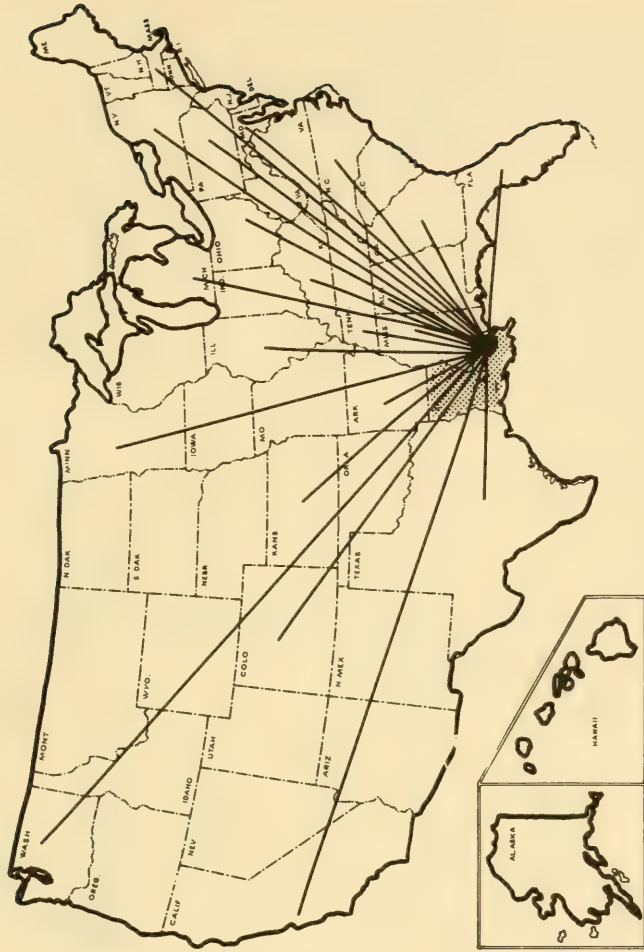






# DETROIT





## NEW ORLEANS

## PROJECT I

HANDGUNS

	N.Y.C.	Atlanta	Detroit	New Orleans	Total
Number of guns traced	2,546	827	840	324	4,537
Number of Class A guns (\$100 or more)	628 } 41% 41%	130 } 34% 34%	84 } 36% 36%	8 } 32% 32%	850
Number of Class B guns (\$50-\$100)	417	152	210	97	876
Number of Class C guns (less than \$50)	1,501	545	546	219	2,811
Number of automatics	628	137	176	97	1,038
Number of revolvers	1,918	690	664	227	3,499
Number of guns with barrels of 3" or less	1,938	671	568	227	3,404
Number of guns with barrels over 3"	608	156	272	97	1,133
Number of guns with .32 caliber or less	1,636	561	672	166	3,035
Number of guns with .38 caliber or over	910	266	168	158	1,502
Number of stolen guns	(263) (10%)	(50) (6%)	(109) (13%)	(5) (2%)	(427) (22%)

\*\*\*\*\*

"SATURDAY NIGHT SPECIALS"

Number of Class C guns	1,501	545	546	219	2,811
Number of guns with barrels 3" or less	1,938	671	568	227	3,404
Number of guns with .32 caliber or less	1,636	561	672	166	3,035
Composite average	1,692	592	595	204	3,083
Percent of total guns traced	66%	71%	71%	63%	78%

12/17/73



## PROJECT I

## Sources of Atlanta Handguns

Georgia	537	Mississippi	3
Florida	19	Pennsylvania	3
South Carolina	14	West Virginia	3
North Carolina	9	California	2
Tennessee	8	Indiana	2
Alabama	7	Nebraska	2
Kentucky	7	Arizona	1
New York	7	District of Columbia	1
Ohio	6	Kansas	1
Missouri	5	Minnesota	1
Texas	5	New Jersey	1
Michigan	4	New Mexico	1
Illinois	3	Oklahoma	1
Iowa	3	Washington	1
Louisiana	3	Origin Undetermined	239
			<u>904</u> Firearms
			of which 827
			were handguns)

## PROJECT I

## Sources of New York City Handguns

South Carolina	500	Michigan	10
Florida	273	Colorado	9
Georgia	214	Oklahoma	9
Virginia	169	Arkansas	7
New York	103	Maine	7
Texas	83	Kansas	6
North Carolina	80	Massachusetts	6
Ohio	73	New Mexico	6
Pennsylvania	47	Nevada	5
California	47	Utah	5
Alabama	46	Iowa	4
Kentucky	41	Oregon	4
Illinois	34	Washington	4
Connecticut	33	Delaware	3
Maryland	32	Wisconsin	3
New Jersey	28	Alaska	2
Tennessee	28	Minnesota	2
Louisiana	27	Montana	2
Mississippi	26	Nebraska	2
West Virginia	22	Vermont	2
Missouri	19	New Hampshire	1
Arizona	11	North Dakota	1
District of Columbia	11	Rhode Island	1
Indiana	11	Hawaii	0
		Idaho	0
		South Dakota	0
		Wyoming	0

12/17/73

## PROJECT I

## Sources of New Orleans Handguns

Louisiana	201
Texas	26
Mississippi	23
Florida	10
Georgia	7
Illinois	7
Kansas	7
Kentucky	7
North Carolina	6
Minnesota	3
Alabama	3
Arkansas	3
Maryland	3
Massachusetts	3
Michigan	3
New York	3
Ohio	3
Pennsylvania	3
Washington	3

## PROJECT I

## Sources of Detroit Handguns

OHIO	157	
KENTUCKY	75	
GEORGIA	74	
MICHIGAN	770	
MISSISSIPPI	49	
ALABAMA	46	
FLORIDA	37	
SOUTH CAROLINA	34	
TENNESSEE	32	
ARKANSAS	30	
TEXAS	27	
OKLAHOMA	23	
LOUISIANA	23	
VIRGINIA	22	
ILLINOIS	22	
WEST VIRGINIA	14	
PENNSYLVANIA	13	
NEW YORK	13	
INDIANA	11	
CALIFORNIA	9	
COLORADO	9	
MISSOURI	8	
NORTH CAROLINA	6	
UTAH	4	
ALL OTHER STATES	32	(providing three or less)
TOTAL	840	





DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, D.C. 20226

*July, 1974*

REFER TO  
T:T:F:CHB

MEMORANDUM TO: Assistant to the Director  
(Public Affairs)

THRU: Chief, Technical Services Division *T.W. Dunn*

FROM: Acting Chief, Firearms Technology Branch

SUBJECT: Factoring of Project I Handguns

It was requested that we furnish information regarding the quantity of handguns traced during Project I, which would not qualify for importation under the provisions of the Gun Control Act of 1968. It was further requested that we indicate how many additional handguns would not be approved under the factoring criteria specified in the Administration Gun Control Bill.

For purposes of this study, Phases III and IV of Project I were selected. Phase III includes handguns which were seized during the three month period beginning in July of 1974, in Miami/Dade County, Florida; Philadelphia, Pennsylvania; Minneapolis, Minnesota; and Seattle, Washington. Phase IV consists of handguns seized during the three month period beginning in January of 1975, in Los Angeles, California; Louisville, Kentucky; Boston, Massachusetts; and Charlotte, North Carolina.

A computer printout was prepared listing all handguns seized during Phases III and IV of Project I. The printout included a description of each type handgun according to five categories; manufacturer, type i.e. pistol, revolver, or derringer, model, caliber and barrel length. The quantity of handguns of identical description was also included.

Although the description of each handgun as shown on the incoming Forms 5000, Request for Tracing Firearms, was generally adequate for tracing purposes, it was in many cases unsuitable for factoring. ATF Form 4590, Factoring Criteria for Weapons, requires more detailed

data than is on the ATF Form 5000. Therefore, it was not possible to factor many of the described firearms.

Furthermore, detailed examination of the printout revealed that many omissions and errors were noted in each of the descriptive categories. In some cases these problems were undoubtedly due to incomplete or incorrect information on the original Forms 5000. In other instances errors in keypunching and coding were apparent. While minor descriptive errors in the original data might not affect the traceability of a firearm, these errors would be of prime significance in factoring.

In view of the above difficulties, it was apparent that an attempt to provide a factoring analysis of these handguns based solely on the described data could not be totally successful. A considerable percentage of the guns could not be factored due to insufficient data. Since there is some question as to the accuracy of the data from the printout our findings should not be considered totally accurate.

Nevertheless, an attempt was made to provide the requested information. For purposes of this study the surplus military status of any handgun was ignored. In cases where apparent errors were not evident, the descriptive information was presumed correct and the firearm was factored accordingly. In many cases the firearm was described correctly, however, it could not be factored due to the lack of additional information regarding optional accessories such as target sights, grips, hammers, triggers, etc. In other cases omissions and obvious errors in the provided data prohibited a definitive indication of a firearms status. In these cases the firearm was not factored and was given an unknown status.

In cases where a handgun was incompletely described, it was sometimes possible to list it in the disapproved category. All revolvers having a barrel length of less than three inches, were listed as failing the import criteria. Likewise, all revolvers having a barrel less than four inches in length would not be approved under the proposed criteria.

A handgun was not listed in the approved category unless it was known that a particular model regardless of sights, hammers, triggers etc. would definitely pass the criteria.

## FINDINGS

Total quantity of handguns which would not be approved under the import criteria.....	2,337 or 60%
Total quantity of handguns which would be approved under the import criteria.....	795 or 21%
Total quantity of handguns of unknown status.....	741 or 19%
	<hr/>
Total	3,873 or 100%

If the proposed criteria is applied, an additional 149 handguns would not qualify. This figure largely represents the number of revolvers listed as having three inch barrels.

Note: It was found that a total of 14 rifles and shotguns had been incorrectly included in the data, however, this quantity is too small to be of statistical significance.

  
Victor C. Travers



DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

**FACTORIZING CRITERIA FOR WEAPONS**

**NOTE:** The Bureau of Alcohol, Tobacco and Firearms reserves the right to preclude importation of any revolver or pistol which achieves an apparent qualifying score but does not adhere to the provisions of section 925(d)(3) of Amended Chapter 44, Title 18, U.S.C.

PISTOL			REVOLVER		
MODEL:			MODEL:		
PREREQUISITES			PREREQUISITES		
1. The pistol must have a positive manually operated safety device. 2. The combined length and height must not be less than 10" with the height (right angle measurement to barrel without magazine or extension) being at least 4" and the length being at least 6".			1. Must pass safety test. 2. Must have overall frame (with conventional grips) length (not diagonal) of 4½" minimum. 3. Must have a barrel length of at least 3".		
INDIVIDUAL CHARACTERISTICS	POINT VALUE	POINT SUB-TOTAL	INDIVIDUAL CHARACTERISTICS	POINT VALUE	POINT SUB-TOTAL
OVERALL LENGTH			BARREL LENGTH ( <i>Muzzle to Cylinder Face</i> )		
FOR EACH ¼" OVER 6"	1		LESS THAN 4"	0	
FRAME CONSTRUCTION			FOR EACH ¼" OVER 4"	½	
INVESTMENT CAST OR FORGED STEEL	15		FRAME CONSTRUCTION		
INVESTMENT CAST OR FORGED HTS ALLOY	20		INVESTMENT CAST OR FORGED STEEL	15	
WEAPON WEIGHT W/MAGAZINE ( <i>Unloaded</i> )			INVESTMENT CAST OR FORGED HTS ALLOY	20	
PER OUNCE	1		WEAPON WEIGHT ( <i>Unloaded</i> )		
CALIBER			PER OUNCE	1	
.22 SHORT AND .25 AUTO	0		CALIBER		
.22 LR AND 7.65mm TO .380 AUTO	3		.22 SHORT TO .25 ACP	0	
9mm PARABELLUM AND OVER	10		.22 LR AND .30 TO .38 S&W	0	
SAFETY FEATURES			.38 SPECIAL	4	
LOCKED BREECH MECHANISM	5		.357 MAG AND OVER	5	
LOADED CHAMBER INDICATOR	5		MISCELLANEOUS EQUIPMENT		
GRIP SAFETY	0		ADJUSTABLE TARGET SIGHTS ( <i>Drift or Click</i> )	5	
MAGAZINE SAFETY	5		TARGET GRIPS	5	
FIRING PIN BLOCK OR LOCK	10		TARGET HAMMER AND TARGET TRIGGER	5	
MISCELLANEOUS EQUIPMENT			SAFETY TEST		
EXTERNAL HAMMER	2		A Double Action Revolver must have a safety feature which automatically (or in a Single Action Revolver by manual operation) causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge. The safety device must withstand the impact of a weight equal to the weight of the revolver dropping from a distance of 36" in a line parallel to the barrel upon the rear of the hammer spur, a total of 5 times.		
DOUBLE ACTION	10				
DRIFT ADJUSTABLE TARGET SIGHT	5				
CLICK ADJUSTABLE TARGET SIGHT	10				
TARGET GRIPS	5				
TARGET TRIGGER	2				
SCORE ACHIEVED (Qualifying score is 75 points)			SCORE ACHIEVED (Qualifying score is 45 points)		



## FACTORING CRITERIA FOR WEAPONS

## PISTOL MODEL \_\_\_\_\_

Individual characteristics and factor allowance	sub-total (points)
---	--------------------

Overall length

For each 1/4" over 6" (1 value)	_____
---------------------------------	-------

Frame construction

Steel (25 value)	_____
------------------	-------

BTS Alloy (30 value)	_____
----------------------	-------

Weapon weight/magazine (unloaded)

Per ounce (1 value)	_____
---------------------	-------

Caliber

.22 Short and .25 A&C (10 value)	_____
----------------------------------	-------

.22 LR and 7.65mm to .380 (3 value)	_____
-------------------------------------	-------

9mm Parabellum and over (10 value)	_____
------------------------------------	-------

Safety features

Locked breech mechanism (5 value)	_____
-----------------------------------	-------

Loaded chamber indicator (5 value)	_____
------------------------------------	-------

Cocked position indicator (5 value)	_____
-------------------------------------	-------

Grip safety (5 value)	_____
-----------------------	-------

Magazine safety (5 value)	_____
---------------------------	-------

Firing pin block or lock (10 value)	_____
-------------------------------------	-------

Other features

Contoured magazine extension (1 value)	_____
--	-------

Slide hold-open device (3 value)	_____
----------------------------------	-------

Miscellaneous equipment

Hammer fired (3 value)	_____
------------------------	-------

Double action (10 value)	_____
--------------------------	-------

Drift adjustable sight (5 value)	_____
----------------------------------	-------

Screw adjustable windage or elevation sight (8 value)	_____
---	-------

Screw adjustable windage and elevation sight (10 value)	_____
---	-------

Target grips (5 value)	_____
------------------------	-------

Target trigger (3 value)	_____
--------------------------	-------

Prerequisites:

1) The pistol must have a positive manually operated safety device. 2) The combined length and height must be not less than 10" with the height (right angle measurement to barrel without magazine or extension) being at least 4" and the length being at least 6".

## SCORE ACHIEVED \_\_\_\_\_

Qualifying score is 85 points

## REVOLVER MODEL \_\_\_\_\_

Individual characteristics and factor allowance	sub-total (points)
---	--------------------

Barrel length

(Muzzle to cylinder face)	
---------------------------	--

For each 1/2" over 6" (1/2 value)	_____
-----------------------------------	-------

Frame construction

Steel (25 value)	_____
------------------	-------

BTS Alloy (30 value)	_____
----------------------	-------

Weapon weight (unloaded)

Per ounce (1 value)	_____
---------------------	-------

Caliber

4mm to .25 (0 value)	_____
----------------------	-------

.22 LR and .30 to .38 S&W (3 value)	_____
-------------------------------------	-------

.38 Special (4 value)	_____
-----------------------	-------

.357 Magnum and over (5 value)	_____
--------------------------------	-------

Safety features

Grip safety (3 value)	_____
-----------------------	-------

Other features

Front supported or shrouded	
-----------------------------	--

ejector rod (2 value)	_____
-----------------------	-------

Rifled portion of barrel threaded	
-----------------------------------	--

to or integral to frame or strap	
----------------------------------	--

component (5 value)	_____
---------------------	-------

Retracting firing pin (2 value)	_____
---------------------------------	-------

Steel recoil plate (2 value)	_____
------------------------------	-------

Crane mounted cylinder or rear-	
---------------------------------	--

latch top break DA revolver (5	
--------------------------------	--

value)	_____
--------	-------

Spring-loaded ejector assembly and	
------------------------------------	--

loading gate for SA revolver (5	
---------------------------------	--

value)	_____
--------	-------

Miscellaneous equipment

Drift adjustable sight (2 value)	_____
----------------------------------	-------

Screw adjustable windage or elevation	
---------------------------------------	--

sight (5 value)	_____
-----------------	-------

Screw adjustable windage and	
------------------------------	--

elevation sight (7 value)	_____
---------------------------	-------

Target grips (4 value)	_____
------------------------	-------

Target trigger (2 value)	_____
--------------------------	-------

Target hammer (2 value)	_____
-------------------------	-------

Prerequisites:

1) Must pass safety test.

2) Must have overall frame (with conventional

grips) length (not diagonal) of 4 1/2"

minimum.

3) Must have a barrel length of at least 3".

Safety test:

A Double Action Revolver must have a safety

feature which automatically (or in a Single

Action Revolver by manual operation) causes

the hammer to retract to a point where the

firing pin does not rest upon the primer of

the cartridge. The safety device must with-

stand the impact of a weight equal to the

weight of the revolver dropping from a distance

of 36" in a line parallel to the barrel

upon the rear of the hammer spur, a total

of 5 times.

## SCORE ACHIEVED \_\_\_\_\_

Qualifying score is 60 points

**Department of the TREASURY** **NEWS**  
**BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
 Washington, D.C. 20226 202/961-7268



Public Affairs Office  
 16 City Crime Gun Study  
 For Immediate Release

FY-76-42  
 February 17, 1976

WASHINGTON -- A study of 7,815 handguns seized in crimes in 16 cities and traced by the Bureau of Alcohol, Tobacco and Firearms indicated that:

- Easy-to-hide handguns with a barrel length less than three inches were dominant in street crime.
- Nearly half of the weapons met the ATF definition for the small, easily concealed "Saturday Night Special."
- At least one of every 18 crime guns was stolen.
- In study areas with strict firearms control measures, out-of-state handgun purchases increased.

ATF Director Rex D. Davis said his bureau was releasing its Project Identification study early "for analysis by the Congress which is now considering firearms legislation."

The 16 diverse cities and metropolitan areas in the "Project I" study were Atlanta, Boston, Charlotte, Dallas, Denver, Detroit, Kansas City, Los Angeles, Louisville, Miami-Dade County, Minneapolis-St. Paul, New Orleans, New York, Oakland, Philadelphia and Seattle.

(more)

Davis said the study was conducted "to increase our knowledge of the criminal misuse of firearms, which is essential if our nation is to reverse the rising tide of gun crimes."

A total of 10,617 handguns was seized by police in the 16 cities. Project I was conducted in four phases beginning in 1973 and ending in 1975. The study period for each city was from three to six months.

ATF traced 7,815 or 74 per cent of the 10,617 crime guns submitted for study. Each traced handgun was classified as to source, barrel length, cost, age, and whether revolver or semi-automatic. A count was made of guns which met the ATF definition for a "Saturday Night Special," and for stolen guns.

The study noted that a handgun's barrel length "relates directly to concealability and is probably the most important factor in the entire project." Seventy-one per cent or 6,590 of the traced guns had a barrel length of three inches or less.

Other findings for handguns traced to determine their history and movement until used in crime:

- Sixty-one per cent or 5,797 guns cost \$50 or less.
- Fifty-six per cent or 5,336 guns were .32 caliber or less.

(more)

-- And forty-five per cent or 3,486 guns met all three criteria for ATF's definition of the small, easily concealed handgun often called a "Saturday Night Special."

ATF defines the "special" as a handgun with a barrel length of three inches or less, .32 caliber or less, costing \$50 or less. (This is an ATF definition, for classification purposes, and is not a "legal" definition.)

The Bureau charted a trend linking local firearms control measures with out-of-state handgun purchases.

New York, for example, has strict firearms laws while control measures in Georgia are less restrictive.

Ninety-five per cent or 1,945 of 2,048 handguns in the New York City study was purchased outside New York state. In contrast, 80 per cent or 537 of 665 handguns in the Atlanta study was purchased in the state of Georgia.

As applied to all 16 cities, the study stated that "the percentage of crime handguns purchased out of state was directly proportionate to the degree of local handgun control."

Stolen guns accounted for 624 or six per cent of the total traced. However, ATF believes the true figure for stolen guns "is much higher due to a reluctance to report the theft of firearms."

The profile which emerged from the study was of a street criminal who selected a small caliber, easy-to-hide revolver of recent manufacture.

(more)



About half the time the crime gun was a "Saturday Night Special" purchased from a firearms dealer or pawnshop. The sale usually occurred outside a state with strict firearms laws, inside a state with less restrictive firearms control measures.

####

**Department of the TREASURY****NEWS****BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
Washington, D.C. 20226 202/961-7268

STATEMENT BY REX D. DAVIS  
DIRECTOR  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
U.S. TREASURY DEPARTMENT  
CONCERNING PROJECT IDENTIFICATION  
FEB. 17, 1976

THE PURPOSE OF THIS NEWS CONFERENCE IS TO GIVE THE MEDIA AN ADVANCE LOOK AT THE FINDINGS OF OUR PROJECT IDENTIFICATION OR PROJECT I FOR SHORT, WHICH IS A TRACING STUDY OF HANDGUNS PICKED UP IN CRIMES IN 16 SELECTED CITIES. WE BEGAN THIS STUDY IN JUNE OF 1973, BY TRACING HANDGUNS PICKED UP IN CRIMES IN THE CITIES OF NEW YORK, ATLANTA, DETROIT, AND NEW ORLEANS WE THEN EXTENDED THE STUDY TO 12 OTHER CITIES.

SINCE ATF IS THE OFFICIAL GOVERNMENT AGENCY ENTRUSTED WITH THE RESPONSIBILITY OF ADMINISTERING AND ENFORCING FEDERAL GUN LAWS, IT IS NECESSARY FOR US TO KNOW AS MUCH AS POSSIBLE ABOUT THE GUNS WHICH ARE USED IN OR ASSOCIATED WITH CRIME.

ONE OF THE BUREAU'S BASIC TASKS IN LAW ENFORCEMENT IS TO KEEP GUNS OUT OF THE HANDS OF CRIMINALS, THUS, WE EMBARKED UPON THE TASK OF MAKING AN EVALUATION OF THE TYPES OF GUNS USED IN CRIMES, VARIOUS CHARACTERISTICS OF THESE GUNS, AND, IF POSSIBLE, TO DISCOVER WHERE CRIMINALS WERE OBTAINING THEIR GUNS.

TO PERFORM THE TASK, WE ESTABLISHED THE ATF NATIONAL FIREARMS TRACING CENTER HERE IN WASHINGTON IN SEPTEMBER OF 1972 AND WE INITIATED LIAISON WITH ALL DOMESTIC GUN MANUFACTURERS. IN ADDITION, OUR TRACERS MAINTAIN CONTACT WITH 100 FOREIGN FIREARMS MANUFACTURERS IN 14 COUNTRIES.

THE TRACING ITINERARY GOES FROM MANUFACTURER, OR IMPORTER, TO WHOLESALER TO THE FIRST RETAIL SALE.

THUS, WE CONSIDER A SUCCESSFUL TRACE ONE THAT HAS PERMITTED US TO FOLLOW THE FIREARM TO THE FIRST RETAIL SALE.

AT THAT POINT, THE TRACING INFORMATION IS REFERRED TO OUR OWN AGENTS OR TO THE REQUESTING LAW ENFORCEMENT AGENCY FOR FIELD FOLLOW UP.

WITHOUT THIS BASIC ABILITY TO TRACE FIREARMS, PROJECT I WOULD NOT BE POSSIBLE. LAST YEAR ALONE THE BUREAU RECEIVED REQUESTS FOR TRACING FOR 34,719 FIREARMS OF ALL TYPES. OF THESE, 23,693 WERE HANDGUNS, WE SUCCESSFULLY TRACED 14,753 OF THESE. IT IS IMPORTANT TO NOTE THAT MORE THAN HALF OF THE FIREARMS TRACES WE MAKE ARE FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

AS WE PERFORM MORE AND MORE TRACES, WE ARE ABLE TO BUILD AN IMPORTANT STATISTICAL BASE, WHICH IS VITAL TO US AS THE AGENCY ENFORCING FEDERAL FIREARMS LAWS, AS WELL AS TO CONGRESS AND OTHER POLICY MAKERS.

ONE OF OUR PRIMARY FUNCTIONS IS TO ENFORCE THE GUN CONTROL ACT OF 1968 WHICH GIVES ATF THE AUTHORITY TO REGULATE THE FIREARMS INDUSTRY. THIS REGULATION HAS MADE POSSIBLE THE SUCCESSFUL TRACING OF FIREARMS.

ONE OF THE MOST NOTABLE FACTS WE ARE UNCOVERING CONCERNS OUR SUCCESS RATIO IN TRACING. WE HAVE FOUND THAT FOR GUNS MANUFACTURED BEFORE THE GUN CONTROL ACT, OUR SUCCESS RATIO IN TRACING IS ALMOST 25 PER CENT. HOWEVER, FOR GUNS MADE SINCE 1968, WE ARE ABLE TO TRACE SUCCESSFULLY 95 PER CENT SUBMITTED TO US. THE REASON IS THAT SINCE 1968, WE HAVE MORE MEANINGFUL RECORDS AVAILABLE TO US.

IN PROJECT I, WE SOUGHT TO DETERMINE SUCH FACTORS AS CONCEALABILITY, THE NUMBER OF STOLEN GUNS AND THEIR AVAILABILITY TO CRIMINALS, THE TYPE OF GUNS CRIMINALS ARE USING, AND WHAT INFLUENCE LOCAL AND STATE GUN CONTROL LAWS PLAY IN GUN CRIMES.

FROM THE 16 CITIES, WE RECEIVED FIREARMS REPORTS ON 10,617 HANDGUNS. OF THESE, WE WERE ABLE TO SUCCESSFULLY TRACE 7,815.

OF THE TOTAL NUMBER OF GUNS SUBMITTED FOR TRACING, WE FOUND THAT 6,590--OR SEVENTY-ONE PER CENT, HAD A BARREL LENGTH OF THREE INCHES OR LESS. BASED ON THESE FIGURES, WE CONCLUDE THE BIG CITY STREET CRIMINAL PREFERS A GUN THAT IS EASILY CONCEALABLE.



THERE HAS BEEN MUCH WRITTEN AND SAID ABOUT SATURDAY NIGHT SPECIALS, THOSE SMALL, EASILY CONCEALED HANDGUNS KNOWN TO POLICEMEN IN EVERY MUNICIPALITY IN THE UNITED STATES.

ONE OF THE GOALS OF OUR PROJECT I STUDY WAS TO DETERMINE THE NUMBER OF THESE SMALL, DANGEROUS GUNS WHICH WERE BEING USED IN CRIME.

THE TERM SATURDAY NIGHT SPECIAL IS AN AMBIGUOUS ONE, BUT IF WE WERE TO MEASURE THE NUMBER OF THESE GUNS, IT WAS NECESSARY TO DEFINE THE TERM. AS A RESULT, WE JUDGED A GUN TO BE A SATURDAY NIGHT SPECIAL IF IT HAD A BARREL LENGTH OF THREE INCHES OR LESS, WAS .32 CALIBER OR LESS, AND COST LESS THAN \$50 RETAIL. WE DO NOT CONSIDER THIS A LEGAL DEFINITION, BUT WE SELECTED THIS CRITERIA SO WE COULD MEASURE THE STATISTICS.

AS I SAID PREVIOUSLY, IF WE CONSIDER ONLY BARREL LENGTH 71 PER CENT OF THE GUNS HAD A BARREL LENGTH OF 3 INCHES OR LESS. IF WE ADDED THE CRITERIA OF CALIBER AND MONETARY VALUE TO FIT THE COMPLETE DESCRIPTION OF A SATURDAY NIGHT SPECIAL, THEN 45 PER CENT FELL UNDER THE SATURDAY NIGHT SPECIAL DEFINITION. WE FOUND THAT PAWNSHOPS SUPPLIED A DISPROPORTIONATE NUMBER OF THE SMALL HANDGUNS.

AT LEAST 6 PER CENT OF THESE CRIME GUNS IN OUR PROJECT I STUDY HAD BEEN STOLEN.

ALSO, WE FOUND THAT THERE WERE MORE REVOLVERS THAN PISTOLS IN A RATION OF 3 TO 1 BEING USED IN STREET CRIMES IN THE 16 PROJECT I CITIES.

THE RESULTS OF PROJECT I ARE BEING PREPARED IN BOOK FORM. HOWEVER, WE BELIEVED IT EXPEDIENT TO MAKE ADVANCE COPIES OF THE STUDY AVAILABLE TO CONGRESS WHICH NOW IS CONSIDERING HAND-GUN LEGISLATION. THEREFORE, WE ARE MAKING AVAILABLE THIS SAME ADVANCE COPY TO THE MEDIA.

THANK YOU AND I WILL NOW ANSWER ANY QUESTIONS.

ATF

# PROJECT **i** DENTIFICATION

## A Study of Handguns used in Crime



Conducted by the DEPARTMENT OF TREASURY

Bureau of Alcohol,  
Tobacco and  
Firearms

### In these cities

New York	Dallas	Alameda County	Boston
Detroit	Denver	Minneapolis-St. Paul	Louisville
New Orleans	Kansas City	Philadelphia	Charlotte
Atlanta	Oakland	Seattle	Los Angeles

ATF P 3310.1 (2/76)

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## EDITOR'S NOTE:

On Page 18, Statistical Summary Chart, under Phase II, the heading should be Dallas, Denver, Kansas City and Oakland.

Under Kansas City, total handguns received for tracing, correct figure is 314.

On Page 19, under Phase III, number of Semi-Auto Pistols the number should be 206.



## PROJECT IDENTIFICATION

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1

### A MESSAGE From the Director

Project Identification was begun in 1973 by the Bureau of Alcohol, Tobacco and Firearms as a cooperative study with selected police departments to determine the types of guns being used in crimes, and their sources. The project was conducted in 16 diverse cities—New York, Atlanta, Detroit, New Orleans, Dallas, Denver, Kansas City, Philadelphia, Oakland, Miami/Dade County, Florida, Minneapolis/St. Paul, Seattle, Boston, Charlotte, Louisville and Los Angeles.

As the nation's firearms expert, ATF has sought to learn as much as possible concerning the use of guns in crime. With such knowledge, we seek to stem the flow of firearms into the hands of criminals or would be criminals.

This study was not concerned with the question of gun control, but was concentrated solely on the collection of data which would serve to increase our knowledge of the criminal misuse of firearms.

The Bureau is indebted to the police departments of the 16 cities involved for their complete cooperation.

Rex D. Davis  
Director, Bureau of  
Alcohol, Tobacco and Firearms

## PROJECT IDENTIFICATION

### A Study of Crime Handguns

#### HIGHLIGHTS

- ✓ Seventy-one percent, or 7,538, of the handguns submitted for tracing, had a barrel length of 3" or less. Sixty-one percent, or 6,476, had a caliber of .32 or less. Since both of these factors relate to the size of the weapon, these figures indicate that concealability is an overriding factor in selecting a handgun for use in crime.
- 2 ✓ Pawnshops supplied a disproportionate number of inexpensive, easily concealed handguns used in street crimes.
- ✓ The percentage of crime handguns purchased interstate was directly proportionate to the degree of local handgun control.
- ✓ Six percent of the handguns submitted for tracing were reported stolen. However, it is likely that the true figure is much higher due to a reluctance to report the theft of firearms. (NOTE: Further studies are being made in this area.)
- ✓ The breakdown of these crime handguns was 76 percent revolvers and 24 percent semi-automatic pistols. This may indicated a predilection for simply operated, mechanically understandable handguns for use in crimes.
- ✓ Forty-five percent of 3,486 of the weapons successfully traced, had a value of less than \$50 and a barrel length of 3 inches or less and a caliber of .32 or less.

These highlights are preliminary conclusions. Because of the considerable statistical data collected by the Bureau, further analysis should reveal more information concerning the use of handguns in crime. Individuals and organizations are encouraged to conduct independent studies of the published data. With such a wealth of Project I material yet to be reviewed, perhaps more far reaching trends and conclusions may be discovered.

## PROJECT IDENTIFICATION

### A Study of Crime Handguns

#### BACKGROUND

During the early part of 1970, an ATF agent in New York City purchased on the streets a small handgun of the caliber and size from which the term "Saturday Night Special" was derived. He paid more than \$100 for the gun. A trace of the gun disclosed that originally it had been sold by a retail outlet in South Carolina. Investigation revealed that several licensed dealers in South Carolina were working in collusion with North Carolina and New York City residents to transfer handguns illegally from one state to another. It was estimated that approximately 40,000 small, inexpensive handguns were involved in these illegal transactions. As a result of the investigation, ATF brought charges against 17 persons. All of the dealers involved were convicted and put out of the retail gun business. 3

Following this, ATF proceeded with plans to study the scope of illegal handguns in several major cities to learn how criminals were acquiring guns and what could be done about it. Thus Project Identification was begun in Detroit, Atlanta and New Orleans. The police department in each city was asked to provide ATF with a list of all firearms seized by the department during the 6 months from July, 1973, to December, 1973. ATF then traced the handguns. No long guns were traced.

Of the total number of serial numbers or descriptions received from the police departments, some of the guns were "untraceable" because records on these guns did not exist or were not available. The rest then were traced from manufacturer or importer to the first retail outlet in the state of the originating project city.

In August, 1973, New York Mayor John V. Lindsay asked that Project Identification (I) include the City of New York because of the problem the police department was experiencing with handguns, in spite of existing strict laws in both New York City and the State of New York. His request was granted.

Project I objectives were to identify the sources of handguns used in street crimes, and to develop intelligence for ATF and police departments regarding illegal firearms dealers, firearms theft rings and other suppliers of handguns to criminals.

In processing voluminous identification data, it became apparent that in addition to the original objectives of determining street gun sources, considerable statistical data relating to types of guns used in street crimes was being channeled through ATF. As a result, in December, 1973, a statistical analysis was prepared on the trace information received for Project I. This analysis included statistical data on sources of handguns and specific findings as to quality, type, barrel length and caliber of all guns traced.

Because of the usefulness of the information compiled in the initial four-city study, Project I was extended to 12 other cities. The study was conducted in four phases:

## PROJECT IDENTIFICATION

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### A Study of Crime Handguns

#### PHASE I

New York, Atlanta, Detroit, New Orleans

#### PHASE II

Dallas, Denver, Kansas City, Oakland

#### PHASE III

Miami/Dade County, Minneapolis/St. Paul, Philadelphia,  
Seattle

#### PHASE IV

Boston, Charlotte, Louisville, Los Angeles

4

Originally designed as enforcement assistance to police, Project I expanded through each phase by encompassing new data in an effort to provide more meaningful firearm statistics. As a result of this continuing process, some information was not reported in the earlier phases, and other information was compiled by differing methods in the latter phases.

The statistical data totals for the broad 16-city coverage are considered representative of the national crime gun problem.

### PROCEDURES

Each cooperating police department surveyed all handguns received, recovered or seized by them during a specified period. An ATF Form 5000 (Request for Firearms Trace) was completed and sent to Bureau Headquarters, where each request was processed by the Criminal Enforcement Operations Division and then forwarded to the ATF National Firearms Tracing Center.

The identifying information furnished ATF included the serial numbers of these handguns. ATF took these serial numbers, and starting with the manufacturers of the guns, traced the ownership history of the weapon step-by-step.

Since 1958, the Federal Firearms Act has required that each high powered rifle and handgun bear the name of its manufacturer, its caliber and an identifying serial number. Shotguns and .22 caliber rifles were excluded.

However, the Gun Control Act of 1968 broadened this requirement to include shotguns and rifles. Imported guns came under the same requirements, with the exception that it was necessary also to include the importer's name on the gun.

Manufacturers, importers and dealers always have been required to keep information concerning the person or firm to whom they sold firearms. However, the Gun Control Act of 1968 requires far more information concerning the buyer. Records of the retail dealer now must show on a Form 4473 the name and address of the buyer, his physical description, and a notation as to the type of identification the buyer provided.



## PROJECT ILLUSTRATIONS

### A Study of Crime Handguns

The buyer must swear that he is over 21, that he is a resident of the state in which he is purchasing the gun, that he is not a convicted felon, that he does not have a history of mental disease and is not a user of narcotics. In addition, the buyer must sign the transaction form.

The information on the form 5000, and the information concerning crime guns, facilitates the tracing of a handgun from manufacturer or importer to the retail outlet where the gun is sold to the first retail purchaser.

When gun tracers contact manufacturers, both domestic and foreign, and importers as the first step in the trace, the voluntary cooperation of these manufacturers and importers has been excellent. Their willingness to assist ATF in its important duty of tracing crime guns has played a valuable role in the Bureau's successful gun tracing operation. The ATF National Firearms Tracing Center traces about 3,000 handguns per month, about half without charge at the request of more than 2,000 State and local law enforcement agencies in all 50 States.

Once the information concerning a trace was compiled, the data was entered into the Treasury computer system. When all data was entered, printouts were obtained showing the line entries of all gun traces, coded and entered under the project.

The statistical data in this report was obtained by analysis of these computer printouts.



## A Study of Crime Handguns

### HANDGUN CLASSIFICATIONS

Each handgun was classified as follows:

1. Caliber - Handguns of .38 to .44 caliber or less were classified as small; handguns over .32 caliber were classified as large.

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2. Barrel length - Handguns with a barrel length of 4 inches or less were classified as short-barreled handguns with barrel length less than 4 inches were classified as long. All descriptions, because of their ready concealability, were classified as short.

3. Type - Each handgun was classified as either a revolver or semi-automatic pistol. Airsoft pistols were classified as other.

4. Quality - Three classifications were used:  
Class 1 - More expensive, higher quality handguns commonly used for law enforcement, collecting, sporting or target purposes; retail price range was approximately \$250 to \$500.  
Class 2 - Handguns of medium price, medium quality, more commonly used for sporting, personal protection, hunting and similar purposes; retail price range of approximately \$50 to \$100.



# A Study of Crime Handguns

Class 3 - Inexpensive handguns of low quality. Retail price range usually less than \$50. All derringers were included in this class.

5. Firearms source - This term denotes the last retail dealer to whom the weapon was traced. If the gun was traced to a retail dealer in the same State as the city originating the trace, no attempt was made to further the trace. If the trace led to a retail dealer in a State other than that of the originating city, the trace was continued until it was taken to a retailer in the same State as the originating trace city. This was done to assure that following criminal investigations were not compromised.
6. Street Age - This refers to one of two dates. If the trace took the gun to an ultimate purchaser, the year of that purchase was used for establishing age. In all other traces the age-year was the year the weapon was shipped to the last known dealer.
7. Saturday Night Special - The term Saturday Night Special is subject to many and varied definitions. ATF has not attempted to create a conclusive or all-encompassing definition. However, for the purpose of this project only, ATF has defined a Saturday Night Special as a handgun which meets all of the following criteria:
  - a. Cost - Less than \$50
  - b. Caliber - .32 caliber or less.
  - c. Barrel length - 4 inches and under
 (All derringers were classified as Saturday Night Specials.)
8. GCA Reference - The handguns traced were classified, with relation to the date that they were traced to the last owner, as either before or after enactment of the Gun Control Act of 1968. As to those sections of the GCA relevant to this project, the GCA date referred to is Dec. 16, 1968.

A firearm may have been termed untraceable in this project for several reasons: Too old, no serial number, insufficient manufacturer records, surplus military or other factors which precluded successful tracing.

## STOLEN GUNS

To determine if a gun was stolen, each serial number was entered on the National Crime Information Center (NCIC) computer to see if it was one of approximately 938,000 stolen guns on file.

## SUMMARY

### Analysis of All Studies

This consolidated report reflects a total of 10,617 crime guns submitted by police of 16 cities for tracing. Of this total, 7,815 or 74 percent were successfully traced. The analysis of this data by individual classifications is outlined with appropriate interpretations.

However, it should be noted that any conclusions based upon this data must be tempered with the knowledge that each firearm involved in the study had been obtained by police as the result of a crime or official investigation, and that this data does not represent general handgun ownership; only crime guns used by a small segment of the population.

#### CLASS\*

Class 1 (Quality handgun; valued at \$100 or more)	25%
Class 2 (Medium quality; valued at \$50 - \$100)	18%
Class 3 (Low quality; valued less than \$50)	56%

The terms "class" and "value" must be recognized as relative terms insofar as this project is concerned. The categorization of traced weapons into one of these three categories was a mechanical function, predetermined by the identity of the manufacturer. In other words, all Colts and Smith and Wessons, for example, were considered to be Class 1; all Harrington and Richardsons and Iver Johnsons, for example, were considered to be Class II; all Clerkes and Rohms, for example were considered to be Class III.

This predetermined classification system did not take into consideration the true market value of the weapon at the time of acquisition by the police, at the time of acquisition by the person from whom the police obtained it, or at the time of sale by the last known retail dealer. (The mechanics of the project were such that this information simply was not readily available.)

It is quite likely that many guns classified 1 and 2 had a market value of less than \$50 at the time obtained by the police or acquired by the last known possessor. A S & W, for example, 20 years of age that had passed through various hands and was ultimately disposed of through a pawnshop could easily—through normal depreciation, lack of care, lack of demand, etc.—have fallen into the less than \$50 bracket of market value no matter what its original price. (The opposite would be untrue except in those relatively few instances where

\*Percentages listed in Class, Type, Barrel Length and Caliber relate to 10,617, the total crime guns submitted by police—all other percentages relate to 7,815 total number of crime guns successfully traced.



## SUMMARY

## Analysis of All Studies

value would increase because the weapon subsequently becomes a collector's item.) The fact that approximately 797 (23 percent) of the traced guns from the last 12 cities came from pawnshops is indicative of a considerable volume of depreciation. In addition, 624 (6 percent) of the total traced guns were stolen. This figure likely is minimal since weapons were classed as stolen only if reported by serial number to the National Crime Information Center. The value of these stolen guns—whether original or current market—is immaterial with relation to the question, "What kind of guns do criminals prefer for their criminal activities?"

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Therefore, the only conclusion to be safely made from the "Class" data is that a substantial majority of handguns used in street crimes is of low quality with a market value of less than \$50. This conclusion is based on the fact that 5,336 (56 percent) of the handguns traced never exceeded \$50 in value and of the remaining 4,176, at least some portion of these represent handguns which, although originally valued in excess of \$50, had market values of less than \$50 at the time of the police acquisition due to depreciation, condition, age, lack of demand, etc. In addition, 624 of the handguns were found to have been stolen and therefore cost is not a factor to be considered.

## TYPE

Revolvers	- 76%
Semi-automatic pistols	- 24%

This three to one ratio, indicating that the revolver is the more heavily favored weapon by the criminal element, is directly proportional to the type of handguns manufactured in the United States. During the first 10 months of 1975, approximately 1.5 million revolvers were produced as compared to approximately 500,000 semi-automatic pistols; a ratio of three to one.

Another factor to be considered concerning "type" of weapon is that most individuals, exclusive of the law enforcement community and gun enthusiasts, do not fully understand the mechanical workings of the various types of weapons. When an individual acquires a handgun, whether for self-protection or to rob a gas station, his concern may be to obtain a weapon that will be simple to operate.

## BARREL LENGTH

Barrel 3" or less	- 71%
Barrel over 3"	- 29%

Barrel length of a handgun relates directly to concealability and as such it is probably the single most significant factor in

## SUMMARY

### Analysis of All Studies

the entire project. Its significance stands alone and is not dependent upon any other factor.

Even though complete statistics are not available for the specific reasons that police acquired each handgun in all studies, a review of individual trace forms indicate that many of these weapons were used in street crimes or they were related to "carrying concealed weapon" charges. If a weapon is to be used for street crime activity, concealability is the first and foremost consideration of the acquirer and the length of the barrel of a particular handgun basically determines its concealability.

It is also important to note that handguns with a barrel length in excess of 3 inches generally are more accurate and therefore more desirable for sporting or other legitimate purposes. (Proposals placed before Congress in 1975 would eliminate the manufacture, importation, and sale of revolvers with a barrel length of less than 4 inches and pistols with an overall length of less than 6 inches. All of the revolvers and most of the pistols that had a barrel length of 3 inches or less in this study, 71 percent, would be prohibited. Additionally, at least some of the remaining 29 percent which had barrels in excess of 3 inches would also be prohibited, i.e., revolvers with barrels 3 inches to 4 inches in length.)

#### CALIBER

.32 caliber or less	- 61%
Over .32 caliber	- 39%

The popularity of a small caliber handgun is related directly to concealability, second only to barrel length. This factor is related equally to the cost factor of the weapon. However, it may not necessarily be related to the quality of the product, i.e., a .22 caliber handgun generally is less expensive than a larger caliber weapon but numerous quality manufacturers produce the smaller .22 caliber handgun. Handguns produced during the first 10 months of 1975 do not indicate the same popularity of caliber among the general public as with handguns involved in street crimes. Manufacturers during this period produced an equal number of small and large caliber handguns, as compared to the three to two ratio found in the "caliber" category of this study.

#### SATURDAY NIGHT SPECIAL

This descriptive category was an attempt to arrive at a definition for statistical purposes that would only generally define an inexpensive, concealable weapon that has become common in street crime usage. To computerize and retrieve the information from the handguns in the study it became mechanically necessary to define this weapon as one which

## SUMMARY

## Analysis of All Studies

had a barrel length of 3 inches or less, one which had a caliber of .32 or less, and one which was relatively inexpensive (Class 3). For the purposes of this study a handgun had to meet all three criteria to be classified as a Saturday Night Special. (This restrictive definition was used only to facilitate statistical data compilation and ATF does not advocate its use as a legal definition.)

Forty-five percent or 3,486 of the weapons successfully traced could be categorized under this definition. Studies from individual cities indicate there was a high of 56 percent in Atlanta to a low of 26 percent in Miami/Dade County.

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More significant than the number of weapons falling within this simple definition is the large percentage of handguns found in the study to be easily concealable, combining the caliber and barrel length factors only. As previously stated, concealability may be the most significant factor in the entire descriptive category. (Sixty-one percent of all handguns studied were small caliber and 71 percent had a barrel length of 3 inches or less.)

## CRIME GUN SOURCES

The analysis also was directed toward crime gun sources and two factors were identified that are believed to be significant and indicative of a national pattern.

The number of Project 1 handguns traced to pawn/loan type businesses in the latter 12 project cities was totaled and indicate that 23 percent of all successfully traced handguns was sold to the public by a pawn/loan type business. A further in-depth study concerning the cities of Boston, Charlotte, Louisville and Los Angeles indicated that 25 percent of the handguns had been purchased from pawn/loan type businesses and 59 percent of these were Saturday Night Specials.

These statistics were manually obtained from the respective successfully traced handguns only if the licensee's business name reflected the words "pawn" or "loan," and therefore the totals are not conclusive but represent only the minimum number of weapons that had a pawn/loan type business as a source. Even though statistics are not available for all study cities with relation to "pawn/loan" businesses, it is significant that this source may have supplied a disproportionate number of inexpensive, concealable weapons if the statistics in the last four cities studied are reliable indicators for all project cities.

The state of origin of each successfully traced handgun also was analyzed in an attempt to determine specific sources and possible flow patterns of weapons used in street crimes.

The majority of the individual studies indicates that most of the crime guns were purchased in the state where they were involved in a crime. Data was not available however to determine whether or not the handgun had been purchased

## SUMMARY

### Analysis of All Studies

within the particular jurisdiction of the study city or whether the handgun had been purchased in another part of the same state.

There were significant exceptions where a majority of the weapons found in five study cities was purchased in other states. It is apparent that in the study area, with a few exceptions, the percentage of out-of-State purchases is directly proportional to the strength of the local firearm regulations. Each study city, its major state or states of source, and a brief synopsis of local firearm regulations is outlined as follows:

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#### NEW YORK

Four percent from New York, 20 percent from South Carolina, 11 percent from Florida, 8 percent from Georgia, and 6 percent from Virginia. (All other states of source were less than 4 percent each—see individual study.)

The New York City Municipal Code requires the issuance of licenses and permits in order to lawfully possess or purchase a handgun as well as a shotgun or rifle. The Code additionally enumerates certain prohibited persons who cannot receive permits or licenses as well as requiring dealers in firearms to adhere to stringent regulations and licensing requirements.

The New York firearms statutes commonly known as the Sullivan Law, are broadly accepted as one of the strictest in the United States and supplemented with potentially severe penalties.

One conclusion from the New York study is that a stringent local law has as a primary effect the funneling of local firearm purchasers to outside sources.

#### ATLANTA

Eighty-one percent from Georgia. (All other States were less than 4 percent—see individual study.)

The Atlanta Municipal Code requires that dealers in handguns obtain a license from the Mayor or Board of Aldermen. There is no registration or licensing provisions for handguns under this jurisdiction or any other restriction on private ownership of handguns. Except that under Article 20-61 of the Municipal Code, .22 caliber handguns which have a barrel length of 3 inches or less and which retail for \$39 or less are prohibited. It is noted that Atlanta had the highest percentage for Saturday Night Specials (56 percent), even though there is legislative prohibition against this type of weapon. As in other study cities, sufficient data is not available to determine whether most of the crime guns were purchased in or outside of Atlanta's municipal jurisdiction, even though a majority were purchased within the same State.



## SUMMARY

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### Analysis of All Studies

#### DETROIT

Eight percent from Michigan, 19 percent from Ohio, 9 percent from Kentucky, 9 percent from Georgia, and 6 percent from Mississippi. (All other states of source are listed in the individual reports.)

The city of Detroit requires that prior to purchasing a handgun a resident must obtain from the Chief of Police a permit and prevents any person from selling such weapons unless the purchaser has a permit to acquire the handgun. Michigan law is similar in that it requires a local Chief of Police issue a permit to an individual prior to his purchase of a handgun.

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As in the case of New York, the Detroit and Michigan statutes apparently are effective in that 92 percent of all successfully traced handguns was purchased in other States. Detroit's geographical location may be a contributing factor to the large percentage coming from Ohio.

#### NEW ORLEANS

Sixty-three percent from Louisiana. (All other states of source are listed in the individual reports.)

New Orleans Municipal Code requires that residents obtain from the Chief of Police a permit to purchase handguns as well as prohibiting firearm dealers from selling handguns unless a permit is obtained by the purchaser. Louisiana State law does not require licensing or permits prior to handgun acquisition. As in other studies, there is insufficient data to determine if a majority of the New Orleans crime guns was purchased in or outside of that jurisdiction. However, it appears that current state legislation directly relates to the high percentage of handguns purchased within the State.

#### DALLAS

Eighty-seven percent from Texas. (All other states of source are listed in the individual reports.)

The City of Dallas has no legislative restrictions on the purchase or possession of handguns and the State of Texas prohibits possession to certain persons, i.e., felons, minors, et al. Of all cities included in the project, Dallas had the highest percentage of source from within its own State.

#### DENVER

Seventy-eight percent from Colorado. (All other states of source are listed in the individual reports.)

The City of Denver requires that handgun dealers maintain records of their sales, including more than one form of identification by the purchaser. There are no registration or permit requirements on the acquisition of handguns by private citizens. Similarly, the State of Colorado does not require licensing or the issuance of permits.

## SUMMARY

### Analysis of All Studies

#### KANSAS CITY, MISSOURI

Thirty-five percent from Missouri and 26 percent from Kansas. (All other states of source are listed in the individual reports.)

Kansas City has no specific registration or permit requirements dealing with the acquisition of handguns, however, the State of Missouri requires that weapons which are "concealable" must be purchased with a permit obtained from the Sheriff in the county where acquired for a fee of 50¢. The State of Kansas has no registration, permit, or licensing requirement concerning purchase or possession of handguns.

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The geographical location of Kansas City explains the high percentage of handguns which had Kansas as a state of source. However, an equally contributing factor may be the difference of regulation between Missouri and Kansas State laws.

#### OAKLAND

Seventy-four percent from California. (All other states of source are listed in the individual reports.)

The State of California requires the licensing of all firearm dealers and places upon that dealer certain restrictions as to the sale of "concealable" weapons. These restrictions include a waiting period between purchase and delivery of a handgun. (The waiting period has been extended to 15 days effective Jan. 1, 1976.) The dealer and the purchaser are required to file a registration form with the state that includes descriptive information about the purchaser.

The City of Oakland has no specific registration, permit, or licensing requirements other than those provided by state statutes at the time of this study.

The Oakland study and the Los Angeles study indicate that the majority of the crime guns had been purchased within that State. This is contrary to the patterns established in other cities that have relatively strong registration, permit, or licensing requirements. There is insufficient data available from the project studies to explain this situation. However, one factor simply may be the distance between California and other areas where handguns may be more easily obtained.

#### MIAMI

Eighty-two percent from Florida. (All other states of source are listed in the individual reports.)

Miami and Dade County have regulations that require a 72-hour waiting period between purchase and delivery of handguns. In addition, Miami requires the notification of the sale, along with certain information relevant to the weapon and purchaser, to the Chief of Police. The State of Florida has no specific registration, licensing, or permit requirements; it does have a prohibited persons category similar to most other States. As in other cities, the project information was not able to identify whether the crime guns used in Miami and Dade County were purchased from in or outside of those particular jurisdictions.

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## SUMMARY

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### Analysis of All Studies

#### MINNEAPOLIS/ST. PAUL

Sixty-one percent from Minnesota. (All other states of source are listed in the individual reports.)

There is no specific registration, licensing, or permit requirement in either the State of Minnesota or the City of Minneapolis. Each jurisdiction prohibits the sale to certain persons, i.e., felons, minors, et. al.; and Minneapolis requires that whenever a handgun is transferred, a notice of that transfer be filed with the City Clerk. St. Paul requires that a permit be first obtained from the Chief of Police prior to purchase of a handgun. The data available from this study does not delineate sales in either St. Paul or Minneapolis, therefore no conclusion can be made except that a majority of the crime guns was purchased within the State of Minnesota.

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#### PHILADELPHIA

Fifty-four percent from Pennsylvania, 9 percent from Virginia, and 8 percent from South Carolina. (All other states of source are listed in the individual reports.)

Pennsylvania State law requires a waiting period of 48 hours between purchase and delivery of a handgun, and filing with the state a notification of the purchase, accompanied by identifying data about the purchaser. The City of Philadelphia additionally requires a license or permit to purchase be obtained from the Philadelphia Police Department prior to the sale of a handgun. (The State of Pennsylvania has passed legislation nullifying local firearm regulations, however, Philadelphia continues to enforce some of its ordinances pending on appeal of the State law.) Even though data is not available from the project to identify whether the crime guns purchased in Pennsylvania were acquired in or out of the jurisdiction of Philadelphia, other enforcement projects have clearly indicated that in all probability they were purchased outside of Philadelphia. It is significant that Virginia and South Carolina, the two largest states of source outside of Pennsylvania, also are major states of source in the New York study.

#### SEATTLE

Seventy-six percent from Washington. (All other states of source are listed in the individual reports.)

The City of Seattle requires a 72-hour waiting period between purchase and delivery of a handgun and written notification of the purchase, with pertinent personal data, being sent to the Chief of Police. The State of Washington requires a similar action on the part of both the purchaser and the dealer. There is no specific permit or licensing requirements for possession or purchase of handguns. The written notification of purchase and waiting period is to provide the police time for action if the proposed purchaser is a prohibited person.

## SUMMARY

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### Analysis of All Studies

#### BOSTON

Thirty-five percent from Massachusetts, 11 percent from Florida, and 7 percent from South Carolina. (All other states of source are listed in individual reports.)

16 Immediately prior to the project being instituted in Boston, the State of Massachusetts enacted mandatory sentencing legislation dealing with possession of firearms without a permit. Massachusetts State law basically requires an individual to obtain a firearm identification card prior to possession of a firearm. A permit to purchase a firearm is additionally required. Both the permits and licenses are issued by appropriate police agencies. Because of the enactment of the mandatory penalty section of the firearm regulations, the total number of firearms submitted in the Boston study was minimal for a major metropolitan area. If the limited number of study handguns is factually representative of the crime guns used in Boston, then it appears that Massachusetts regulations, even prior to mandatory sentencing, had an effect similar to the New York, Detroit and Philadelphia regulations; that is the prohibition in one jurisdiction caused potential purchasers to look elsewhere.

#### CHARLOTTE

Forty-three percent from North Carolina and 29 percent from South Carolina. (All other states of sources are listed in the individual reports.)

North Carolina requires that the Sheriff issue a permit prior to an individual purchasing a handgun in the county of the Sheriff's jurisdiction. Additionally, there are certain prohibited persons, i.e., felons, minors, et. al., who cannot purchase or possess handguns and firearm dealers are required to be licensed and regulated. The enactment and enforcement of some portions of the state's regulations are recent. The project did not provide sufficient data to determine the effect that these laws had upon the source of Charlotte's crime guns. Charlotte's proximity to South Carolina apparently is a factor in the large percentage of crime guns purchased in that state, and of equal importance is the differing firearm regulations in each state at the time of the study.

#### LOUISVILLE

Eighty-two percent from Kentucky. (All other states of source are listed in the individual reports.)

The State of Kentucky has no specific registration, licensing, or permit requirements for the purchase or possession of handguns. The City of Louisville requires written notification to the Louisville police of each handgun transaction, with pertinent data about the purchaser and the weapon purchased. Thumb printing is included in this registration and there is a



## SUMMARY

## Analysis of All Studies

24-hour waiting period between purchase and delivery. As in other studies, no determination can be made as to whether the crime guns used in Louisville and which were purchased in Kentucky actually were purchased in Louisville or outside of that jurisdiction where less stringent regulations were in effect.

## LOS ANGELES

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Eighty-two percent from California. (All other states of source are listed in the individual reports.)

The same comments for Oakland apply equally to this study.

In summary it appears that the following determinations can be made about crime guns used in the project cities:

1. In general, small caliber, short barreled handguns, that usually are inexpensive, are the favored weapon used in street crimes. Combining all factors, concealability may be the most significant factor found in the majority of these weapons.
2. That pawnshops or loan type businesses are the sources of a large number of the Saturday Night Special type handguns, disproportionate to the actual percentage that this class of business is of the total number of firearm dealers.
3. That the strength of firearm regulations or enforcement of those regulations in differing project cities is directly proportional to the percentage of crime guns that were purchased in another State. It also appears that a significant factor concerning the strength of a local ordinance is whether or not a prior permit or authority to purchase is needed. This means that regulations requiring after the fact notification do not have the same deterrent effect on potential handgun purchasers as do regulations requiring prior purchase permits.

# STATISTICAL SUMMARY

## Consolidated Sixteen City Report

### PHASE I

	New York	Atlanta*	Detroit	New Orleans
Total handguns received for tracing	2,931	827	1,262	324
Successfully traced	2,546	665	840	324
Percent Successful	87	80	67	100
No. of Class 1	628	130	84	8
No. of Class 2	417	152	210	97
No. of Class 3	1,501	545	546	219
No. of Revolvers	1,918	690	664	227
No. of Semi-auto Pistols	628	137	176	97
No. with 3" barrel or less	1,938	671	568	227
No. with over 3" barrel	608	156	272	97
No. with .32 caliber or less	1,636	561	672	166
No. with over .32 caliber	910	266	168	158
Saturday Night Specials (Successfully traced)	1,348		390	95
Percent of Successfully Traced	53		46	29
Saturday Night Specials (Received for tracing)		466		
Percent of total received		56		
Source—Firearms Dealer				
Source—Pawn Shop				
Street Age—Prior to GCA (12-16-68)				
Street Age—After GCA				
No. Stolen	263	50	109	5
Percent of total received	9	6	9	2

### PHASE II

	New York	Atlanta*	Detroit	New Orleans
Total handguns received for tracing	654	190	311	245
Successfully traced	517	154	222	189
Percent Successful	79	81	71	77
No. of Class 1	77	33	64	65
No. of Class 2	59	32	45	28
No. of Class 3	381	89	113	116
No. of Revolvers	425	119	159	150
No. of Semi-auto Pistols	92	35	63	39
No. with 3" barrel or less	397	95	145	149
No. with over 3" barrel	120	59	77	40
No. with .32 caliber or less	352	94	136	118
No. with over .32 caliber	165	60	86	71
Saturday Night Specials (Successfully traced)	254	52	68	90
Percent of Successfully Traced	49	34	31	48
Saturday Night Specials (Received for tracing)				
Percent of total received				
Source—Firearms Dealer	322	91	177	112
Source—Pawn shop	195	63	45	77
Street Age—Prior to GCA (12-16-68)	266	73	199	105
Street Age—After GCA	388	117	115	140
No. Stolen	17	11	38	9
Percent of total received	3	6	12	4

\*For analysis as to class, type, caliber, etc. the computation for Atlanta included 162 untraceable guns; in the other seven cities of Phase I and II the computations are based only on the successfully traced guns. Computations in Phase III and IV are based on total received for trace.

# STATISTICAL SUMMARY

Consolidated Sixteen City Report

## PHASE III

	Miami/ Dade	Minpls/ St. Paul	Phil	Seatl
Total handguns received for tracing	957	283	993	219
Successfully traced	652	178	571	129
Percent Successful	68	63	58	59
No. of Class 1	344	91	360	85
No. of Class 2	121	73	210	36
No. of Class 3	492	119	423	98
No. of Revolvers	709	191	787	155
No. of Semi-auto Pistols	248	92	306	64
No. with 3" barrel or less	641**	159**	733**	119**
No. with over 3" barrel	298	113	251	93
No. with .32 caliber or less	439	170	585	110
No. with over .32 caliber	512*	113	408	109
Saturday Night Specials (Successfully traced)	167	53	192	35
Percent of Successfully Traced	26	30	34	27
Saturday Night Specials (Received for tracing)	252	79	323	50
Percent of total received	26	28	33	23
Source - Firearms Dealer	555	153	525	88
Source - Pawn Shop	97	25	46	41
Street Age--Prior to GCA (12-16-68)	164	63	178	52
Street Age--After GCA	488	115	393	77
No. Stolen	7	4	79	1
Percent of total received	1	1	8	1

## COMPOSITE TOTALS OF PHASE I-II-III-IV

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	TLTS	%†
Total handguns received for tracing	10,617	
Successfully traced	7,815	
Percent Successful	74	
No. of Class 1	2,444	26
No. of Class 2	1,732	18
No. of Class 3	5,336	56
No. of Revolvers	7,235	76
No. of Semi-auto Pistols	2,257	24
No. with 3" barrel or less	6,590	71
No. with over 3" barrel	2,708	29
No. with .32 caliber or less	5,797	61
No. with over .32 caliber	3,689	39
Saturday Night Specials (Successfully traced)	3,486	
Percent of Successfully Traced	45	
Saturday Night Specials (Received for tracing)	1,149	
Percent of total received	30	
Source - Firearms Dealer	2,643	77
Source - Pawn Shop	797	23
Street Age--Prior to GCA (12-16-68)	1,285	34
Street Age--After GCA	2,476	66
No. Stolen	624	
Percent of total received	6	

† Percentages in this column are based on the actual totals of line items in the particular descriptive category.

## PHASE IV

	Boston	Charl	Louisvil	Los Angeles
Total handguns received for tracing	171	107	327	816
Successfully traced	84	68	214	462
Percent Successful	49	64	65	57
No. of Class 1	74	35	100	266
No. of Class 2	40	14	49	149
No. of Class 3	57	58	178	401
No. of Revolvers	111	116	247	597
No. of Semi-auto Pistols	60	21	80	219
No. with 3" barrel or less	112	77	251	457
No. with over 3" barrel	59	30	76	359
No. with .32 caliber or less	95	60	186	417
No. with over .32 caliber	76	47	141	399
Saturday Night Specials (Successfully traced)	21	31	83	141
Percent of Successfully Traced	25	46	39	31
Saturday Night Specials (Received for tracing)	46	48	120	231
Percent of total received	27	45	37	28
Source - Firearms Dealer	78	56	141	345
Source - Pawn Shop	6	12	73	117
Street Age--Prior to GCA (12-16-68)	25	19	45	96
Street Age--After GCA	59	49	169	366
No. Stolen	3	8	11	9
Percent of total received	2	7	3	1

\* Does not include six guns showing gauge instead of caliber.

\*\* Does not include 45 guns of unknown barrel length.

## MAJOR CRIME GUN SOURCES

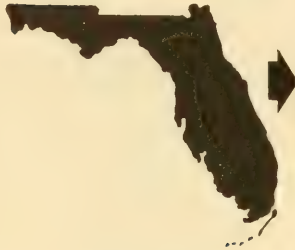
### Handguns Recovered in other States

#### FLORIDA

The State of Florida has no specific registration, licensing, or permit requirements concerning the purchase of handguns. Certain persons (i.e. convicted felons) are prohibited from possessing firearms.

20

#### SUPPLIED CRIME GUNS TO



New York (11%)\*

Boston (11%)

Philadelphia (5%)

Detroit (4%)

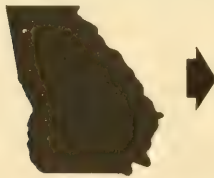
Charlotte (4%)

Atlanta (2%)

#### GEORGIA

During the period covered by these studies the State of Georgia had no specific registration, licensing, or permit requirements dealing with the purchase of handguns or the possession of handguns. State regulations have been recently imposed requiring that prior to purchasing a handgun a certification must be obtained from police indicating the purchaser has not been convicted of a felony during the past five years.

#### SUPPLIED CRIME GUNS TO



Detroit (9%)

Charlotte (9%)

New York (8%)

Boston (6%)

Philadelphia (4%)

Oakland (3%)

Miami (3%)

Los Angeles (2%)

\*All percentages relate to crime guns recovered in each project city.



## MAJOR CRIME GUN SOURCES

### Handguns Recovered in Other States

#### OHIO

The State of Ohio has no uniform specific registration, licensing, or permit requirements concerning the purchase or possession of handguns. Several municipal jurisdictions require police issued permits prior to the purchase of a handgun, however, these regulations vary between cities. There are certain persons, i.e., felons, fugitives, et. al., who are prohibited from possessing handguns by State law.

21

#### SUPPLIED CRIME GUNS TO



Detroit (19%)  
 New York (3%)  
 Miami (2%)  
 Oakland (2%)  
 Atlanta (1%)  
 Philadelphia (1%)  
 Minneapolis (1%)  
 Boston (1%)  
 Louisville (1%)  
 Charlotte (1%)  
 Kansas City (1%)

#### SOUTH CAROLINA

During the project study period and prior to 1975, the State of South Carolina had no specific handgun requirements concerning registration, licensing, or permits. The only regulation concerned certain prohibited persons, i.e. convicted felons and minors. (As a result of ATF's Project I information made available since 1973, the State of South Carolina enacted legislation, effective in June 1975, which provides for more stringent regulation of firearm dealers, and requires that a firearm transaction form be executed at the time of sale. Purchasers must possess specified South Carolina identification and State police are supplied a copy of each transaction form. Citizens are limited to one handgun purchase in 30 days.)

#### SUPPLIED CRIME GUNS TO



Charlotte (29%)  
 New York (20%)  
 Philadelphia (8%)  
 Boston (7%)  
 Detroit (4%)  
 Atlanta (2%)

## MAJOR CRIME GUN SOURCES

### Handguns Recovered in other States

#### TEXAS

The State of Texas has no specific registration, licensing, or permit requirements concerning the purchase or possession of a handgun. There is a prohibited person category similar to most other States governing possession of firearms.

#### SUPPLIED CRIME GUNS TO

22



New Orleans (8%)	
Bostons (5%)	
Kansas City (5%)	Philadelphia (2%)
Denver (4%)	Miami (1%)
Los Angeles (3%)	Louisville (1%)
Oakland (3%)	Seattle (1%)
New York (3%)	
Detroit (3%)	

#### VIRGINIA

The State of Virginia has no specific State-wide registration, licensing, or permit requirements concerning the purchase or possession of handguns. There is in effect however a "county option" regulation that may provide for licensing of firearm dealers and require police issued permits prior to handgun purchases. Some of the metropolitan counties have exercised these options, and others have not.

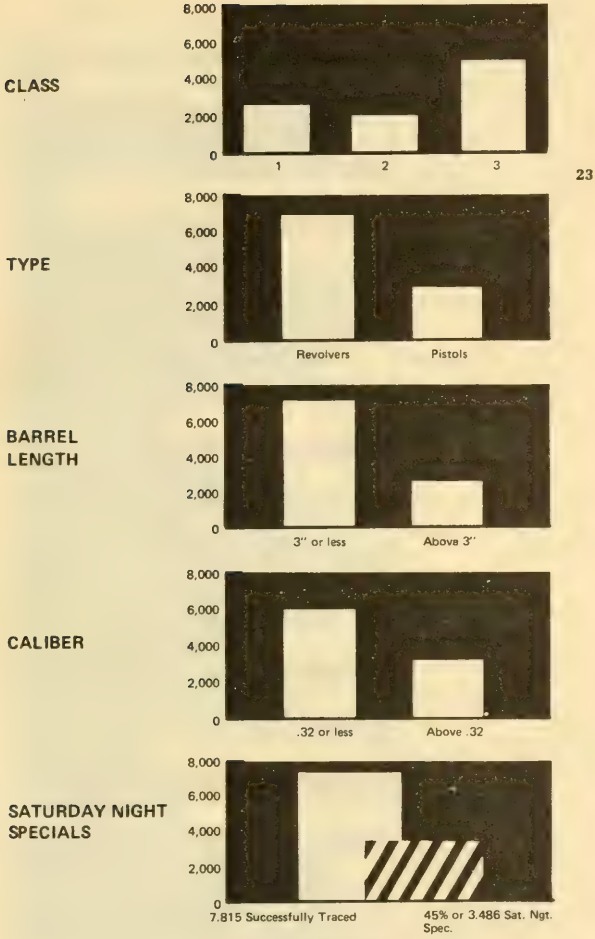
#### SUPPLIED CRIME GUNS TO



Philadelphia (9%)
Charlotte (7%)
New York (6%)
Boston (6%)
Detroit (3%)

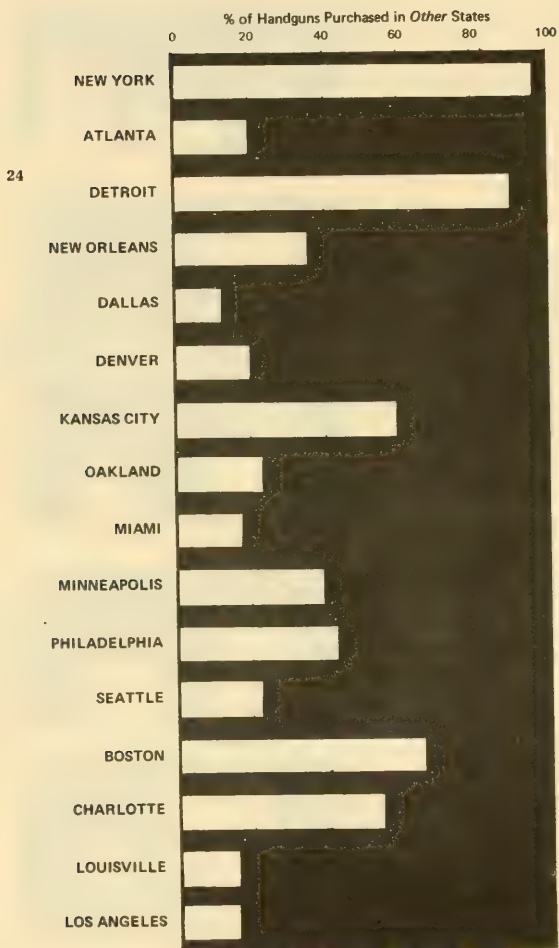
## SUMMARY

## Handguns



## SUMMARY

All Study Cities





## COMPOSITE FINDINGS

### PHASE I

Atlanta, Detroit, New Orleans, New York City

Phase I of Project I included the areas of Atlanta, Detroit, New Orleans and New York City. The period covered was July 1, 1973 through December 1973—6 months.

During that time, police in those cities submitted for tracing 5,344 handguns, of which 969 were untraceable. ATF successfully traced 4,375,\* or 81.9 percent of the total received.

Four hundred twenty-seven, or 7.9 percent, were **stolen**.

There were 3,499 **revolvers** and 1,038 **semi-automatic pistols** for a popularity ratio of approximately 3 to 1.

**Short barreled handguns** totaled 3,404, or 75 percent of the total.

**Small caliber handguns** accounted for 66.9 percent or 3,035 weapons.

25

#### Quality Statistics

Class 1	850 guns	18.7%
Class 2	876 guns	19.3%
Class 3	2,811 guns	62.0%

Of the successfully traced weapons, 2,299, or 50.7 percent, were **Saturday Night Specials**.

### STATISTICAL SUMMARY

#### Phase I COMPOSITE

(Data Base for Analysis is 4,537; sum of data base of each city)

Class 1 (\$100 or more)	850	18.7%
Class 2 (\$50 - \$100)	876	19.3%
Class 3 (less than \$50)	2,811	62.0%
Semi-automatic pistols	1,038	22.9%
Revolvers	3,499	77.1%
Short Barrel	3,404	75.0%
Long Barrel	1,133	25.0%
Small Caliber	3,035	66.9%
Large Caliber	1,502	33.1%

\*For analysis as to class, type, caliber, etc., the computation for Atlanta included 162 untraceable firearms; in the other three cities of Phase I, the computations were based only on the successfully traced firearms.

COMPOSITE FINDINGS

PHASE I

ATLANTA

During the six-month period Project I was in progress in Atlanta, 827 handguns were submitted by the Atlanta Police Department for tracing. Six hundred and sixty-five, or 80.4 percent of those submitted, were successfully traced and 162 were untraceable. Of 827 weapons submitted for tracing: Fifty, or 6 percent, were stolen.

There were 690 **revolvers** and 137 **semi-automatic pistols** for a popularity ratio of 5 to 1.

**Short barreled handguns** totaled 671, or 81.1 percent of the total.

**Small caliber handguns** accounted for 67.8 percent of the total, or 561 weapons.

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Quality Statistics

Class 1	130 guns	15.7%
Class 2	152 guns	18.3%
Class 3	545 guns	66.0%

Of the total handguns 466, or 56.3 percent, were **Saturday Night Specials**.

More than 80 percent of the handguns surveyed in this project originated in Georgia. Twelve licensed dealers were the retail source for most.

STATISTICAL SUMMARY

ATLANTA

(Data Base for Analysis is 827; total received from field)

Class 1 (\$100 or more)	130	15.7%
Class 2 (\$50 - \$100)	152	18.3%
Class 3 (less than \$50)	545	66.0%
Semi-automatic pistols	137	15.4%
Revolvers	690	84.6%
Short Barrel	671	81.1%
Long Barrel	156	18.9%
Small Caliber	561	67.8%
Large Caliber	266	32.2%

## COMPOSITE FINDINGS

### PHASE I

#### SUMMARY SOURCES OF HANDGUNS ATLANTA

STATE	NO. GUNS	STATE	NO. GUNS
Georgia	537	Mississippi	3
Florida	19	Pennsylvania	3
South Carolina	14	West Virginia	3
North Carolina	9	California	2
Tennessee	8	Indiana	2
Alabama	7	Nebraska	2
Kentucky	7	Arizona	1
New York	7	District of Columbia	1
Ohio	6	Kansas	1
Missouri	5	Minnesota	1
Texas	5	New Jersey	1
Michigan	4	New Mexico	1
Illinois	3	Oklahoma	1
Iowa	3	Washington	1
Louisiana	3		
		Total	665

27

#### NEW YORK

During the six-month period the New York Project I was in progress, ATF traced or processed for tracing a total of 2,931 handguns. Two thousand five hundred and forty-six, or 86.9 percent of those processed, were successfully traced and 255 were untraceable.

One hundred and thirty were identified as New York Police Department firearms being held for official proceedings. For the purpose of analysis, the police handguns were eliminated, for a total of 2,546 handguns covered. Of 2,931 weapons submitted for tracing:

Two hundred and sixty-three, or 9 percent, were **stolen**.

There were 1,918 **revolvers** and 628 **semi-automatic pistols** for a popularity ratio of 3 to 1.

**Short barreled handguns** totaled 1,938 or 76.1 percent of the total.

**Small caliber handguns** accounted for 64.2 percent of the total, or 1,636 weapons.

#### Quality Statistics

Class 1	628 guns	24.7%
Class 2	417 guns	16.4%
Class 3	1,501 guns	58.9%

Of the successfully traced guns, 1,348, or 53 percent, were **Saturday Night Specials**.

Major sources of the New York handguns were South Carolina, 500 guns, 20 percent; Florida, 273 guns, 11 percent; Georgia, 214 guns, 8 percent; Virginia, 169 guns, 6 percent; and New York, 103 guns, 4 percent

## COMPOSITE FINDINGS

### PHASE I

#### STATISTICAL SUMMARY

##### NEW YORK

(Data Base for Analysis is 2,546; total successfully traced)

	Class 1 (\$100 or more)	628	24.7%
	Class 2 (\$50 - \$100)	417	16.4%
	Class 3 (less than \$50)	1,501	58.9%
<b>28</b>	Semi-automatic pistols	628	24.7%
	Revolvers	1,918	75.3%
	Short Barrel	1,938	76.1%
	Long Barrel	608	23.9%
	Small Caliber	1,636	64.2%
	Large Caliber	910	35.8%

#### SUMMARY SOURCES OF HANDGUNS NEW YORK CITY

STATE	NO. GUNS	STATE	NO. GUNS
South Carolina	500	Arkansas	7
Florida	273	Maine	7
Georgia	214	Kansas	6
Virginia	169	Massachusetts	6
New York	103	New Mexico	6
Texas	83	Nevada	5
North Carolina	80	Utah	5
Ohio	73	Iowa	4
Pennsylvania	47	Oregon	4
California	47	Washington	4
Alabama	46	Delaware	3
Kentucky	41	Wisconsin	3
Illinois	34	Alaska	2
Connecticut	33	Minnesota	2
Maryland	32	Montana	2
New Jersey	28	Nebraska	2
Tennessee	28	Vermont	2
Louisiana	27	New Hampshire	1
Mississippi	26	North Dakota	1
West Virginia	22	Rhode Island	1
Missouri	19	Hawaii	0
Arizona	11	Idaho	0
District of Columbia	11	South Dakota	0
Indiana	11	Wyoming	0
Michigan	10	Foreign Sources	498
Colorado	9	Total	2,546
Oklahoma	9		



## COMPOSITE FINDINGS

### PHASE I

#### DETROIT

A total of 1,262 handguns were submitted by the Detroit Police Department. Eight hundred and forty, or 67 percent of those submitted, were traced successfully and 422 were untraceable. Of 1,262 weapons submitted for tracing:

One hundred and nine, or 9 percent, were **stolen**.

There were 664 **revolvers** and 176 **semi-automatic pistols** for a popularity ratio of almost 4 to 1.

**Short barreled handguns** totaled 568, or 67.6 percent of the total traced.

**Small caliber handguns** accounted for 80 percent of the total traced, or 672 weapons.

29

#### Quality Statistics

Class 1	84 guns	10%
Class 2	210 guns	25%
Class 3	546 guns	65%

Of the successfully traced guns, 390, or 46.4 percent, were **Saturday Night Specials**.

Major sources of the Detroit handguns were Ohio, 157 guns, 18.7 percent; Kentucky, 75 guns, 9 percent; Georgia, 74 guns, 9 percent; and Michigan, 70 guns, 8.3 percent.

The evidence was that 9 percent of the handguns received for tracing in Detroit was stolen, and equaled the 9 percent stolen gun rate in New York City. This supports the theory that theft rates are higher in states or cities having rigid firearms control.

#### STATISTICAL SUMMARY

##### DETROIT

(Data Base for Analysis is 840; total successfully traced)

Class 1 (\$100 or more)	84	10%
Class 2 (\$50 - \$100)	210	25%
Class 3 (less than \$50)	546	65%
Semi-automatic pistols	176	21%
Revolvers	664	79%
Short Barrel	568	67.6%
Long Barrel	272	32.4%
Small Caliber	672	80%
Large Caliber	168	20%

## COMPOSITE FINDINGS

### PHASE I

#### SUMMARY SOURCES OF HANDGUNS DETROIT

30	STATE	NO. GUNS	STATE	NO. GUNS
	Ohio	157	Missouri	8
	Kentucky	75	North Carolina	6
	Georgia	74	Utah	4
	Michigan	70	New Mexico	5
	Mississippi	49	Iowa	3
	Alabama	46	Alaska	2
	Florida	37	Delaware	2
	South Carolina	34	Massachusetts	2
	Tennessee	32	Maryland	2
	Arkansas	30	Minnesota	2
	Texas	27	Kansas	2
	Oklahoma	23	Oregon	2
	Louisiana	23	Washington	2
	Virginia	22	Wisconsin	2
	Illinois	22	Connecticut	1
	West Virginia	14	New Hampshire	1
	Pennsylvania	13	New Jersey	1
	New York	13	Rhode Island	1
	Indiana	11	Nebraska	1
	California	9	District of Columbia	1
	Colorado	9		
			Total	840

#### NEW ORLEANS

A total of 324 handguns was submitted by the New Orleans Police Department for tracing. All, or 100 percent of those submitted, were traced successfully. Of 324 weapons submitted for tracing:

Five, or 2 percent, were **stolen**.

There were 227 **revolvers** and 97 **semi-automatic pistols** for a popularity ratio of approximately 3 to 2.

**Short barreled handguns** totaled 227 or 70 percent of the total.

**Small caliber handguns** accounted for 51.2 percent of the total, or 166 weapons.

#### Quality Statistics

Class 1	8 guns	2.5%
Class 2	97 guns	29.9%
Class 3	219 guns	67.6%

Of the successfully traced guns, 95 or 29.3 percent, were **Saturday Night Specials**.

Major sources of the New Orleans handguns were Louisiana, 201 guns, 62 percent; Texas, 26 guns, 8 percent; Mississippi, 23 guns, 7 percent; and Florida, 10 guns, 3 percent.

# COMPOSITE FINDINGS

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## PHASE I

### STATISTICAL SUMMARY

#### NEW ORLEANS

(Data Base for Analysis is 324, total received from field)

Class 1 (\$100 or more)	8	2.5%	
Class 2 (\$50 - \$100)	97	29.9%	
Class 3 (less than \$50)	219	67.6%	
Semi-automatic pistols	97	30.0%	31
Revolvers	227	70.0%	
Short Barrel	227	70.0%	
Long Barrel	97	30.0%	
Small Caliber	166	51.2%	
Large Caliber	158	48.8%	

### SUMMARY SOURCES OF HANDGUNS NEW ORLEANS

STATE	NO. GUNS
Louisiana	201
Texas	26
Mississippi	23
Florida	10
Georgia	7
Illinois	7
Kansas	7
Kentucky	7
North Carolina	6
Minnesota	3
Alabama	3
Arkansas	3
Maryland	3
Massachusetts	3
Michigan	3
New York	3
Ohio	3
Pennsylvania	3
Washington	3
Total	324

## COMPOSITE FINDINGS

### PHASE II

Dallas, Denver, Kansas City, Oakland

A total of 1,403 handguns was submitted by police in Dallas, Denver, Kansas City and Oakland from Feb. 15 - May 15, 1974, 90 days. Of this total, 321 handguns were untraceable; 1,082 or 77 percent of the handguns submitted were traced. The following figures relate to the 1,082 traceable weapons:

Seventy-five, or 7 percent, were **stolen**.

There were 853 **revolvers** and 229 **semi-automatic pistols**, for a popularity ratio of about 4 to 1.

32 **Short barreled handguns** totaled 786, or 73 percent of the weapons traced.

**Small caliber handguns** accounted for 700 of the weapons traced, or 65 percent.

#### Quality Statistics

Class 1	219 guns	20%
Class 2	164 guns	15%
Class 3	699 guns	65%

Of the successfully traced guns, 464, or 43 percent, were **Saturday Night Specials**.

The analysis of **street age** for the 1,403 handguns submitted for tracing showed 24 percent, about 1 out of every 4, had been in circulation less than 1 year before becoming involved in some type of police action; about 7 out of every 10 guns traced (763 of 1,082) came into circulation subsequent to the Gun Control Act of 1968.

Of the 1,082 handguns successfully traced, 380, or 35 percent, were traced to a pawnshop/loan shop source. Of these 380 handguns, 260 (68 percent) were Saturday Night Specials. Fifty-six percent of all Saturday Night Specials came from pawnshop sources.

The inexpensive (Class 3, under \$50) handguns were the most popular, accounting for about 2 out of every 3 guns seized.

#### STATISTICAL SUMMARY

##### PHASE II

##### COMPOSITE

(Data Base for Analysis is 1,082; sum of data base of each city)

Class 1 (\$100 or more)	219	20%
Class 2 (\$50 - \$100)	164	15%
Class 3 (less than \$50)	699	65%
Semi-automatic pistols	229	21%
Revolvers	425	79%
Short Barrel	786	73%
Long Barrel	296	27%
Small Caliber	700	65%
Large Caliber	382	35%



## COMPOSITE FINDINGS

### PHASE II

#### SUMMARY SATURDAY NIGHT SPECIALS PHASE II

	Dallas	Denver	Kansas City Missouri	Oakland	Total
Saturday Night Specials	254	52	68	90	464
Percent of Total traced	49%	34%	31%	48%	43%

33

#### DALLAS

The Dallas Police Department submitted 654 handguns for tracing. Of these, 137 were untraceable, and 517, or 79 percent of those submitted, were successfully traced. Of the 517 traceable weapons:

Seventeen, or 3 percent, were **stolen**.

There were 425 **revolvers** and 92 **semi-automatic pistols** for a popularity ratio of almost 5 to 1.

**Short barreled handguns** totaled 397 or 77 percent of the total traced.

**Small caliber handguns** accounted for 68 percent of the total, or 352 weapons.

#### Quality Statistics

Class 1	77 guns	15%
Class 2	59 guns	11%
Class 3	381 guns	74%

Two hundred and fifty-four of the 517 weapons, or 49 percent, were **Saturday Night Specials**.

The major sources for the Dallas handguns were Texas, 450 guns, or 87 percent; and Florida, 8 guns, or 2 percent.

#### Prior to GCA - 128 guns

1. Texas	92 guns	72%
2. Florida	5 guns	4%
3. Louisiana	5 guns	4%
4. California	4 guns	3%

#### After GCA - 359 guns

1. Texas	358 guns	92%
2. Oklahoma	4 guns	1%
3. Louisiana	3 guns	1%
4. California	3 guns	1%

Of the total 654 guns received for tracing, 28 percent—more than 1 of every 4—had been in circulation less than 1 year before becoming involved in some type of police action and at least 6 out of every 10 guns traced came into street circulation subsequent to the Gun Control Act of 1968.

Of the 517 Dallas crime guns, 195 were traced to a pawnshop/loan shop source. Of these 195, 137 (70 percent) were **Saturday Night Specials**. Fifty-four percent of all Dallas **Saturday Night Specials** came from the pawnshops.

## COMPOSITE FINDINGS

### PHASE II

#### STATISTICAL SUMMARY

##### DALLAS

(Data Base for Analysis is 517; total successfully traced)

	Class 1 (\$100 or more)	77	15%
	Class 2 (\$50 - \$100)	59	11%
	Class 3 (less than \$50)	381	74%
34	Semi-automatic pistols	92	18%
	Revolvers	425	82%
	Short Barrel	397	77%
	Long Barrel	120	23%
	Small Caliber	352	68%
	Large Caliber	165	32%

#### STREET AGE OF CRIME GUNS

##### DALLAS

	No. Guns	Percent of total	Cumulative Percent
(1974)			
Less than 1 year (1973)	180	28%	28%
1-2 years (1972)	83	13	41
2-3 years (1971)	64	10	51
3-4 years (1970)	34	5	56
4-5 years (1969)	27	4	60
5-6 years (1968)	31	5	65
6-7 years (1967)	24	3	68
7-8 years (1966)	16	2	70
8-9 years (1965)	12	2	72
9-10 years (1964)	14	2	74
Over 10 years	132	20	94
Unable to determine	37	6	100%
Tracing data base	654	100%	

#### PAWNSHOPS AS SOURCES

##### DALLAS

Total Handguns traced	517
No. with Pawnshops as Source	195
Percent of Total traced	38%
Total No. Saturday Night Specials	254
No. of Saturday Night Specials with Pawnshops as Source	137
Percent of Saturday Night Specials with Pawnshops as Source	54%

## COMPOSITE FINDINGS

### PHASE II

#### SUMMARY SOURCES OF HANDGUNS DALLAS

STATE	NO. GUNS	STATE	NO. GUNS
Texas	450	Wisconsin	2
Florida	8	Alaska	1
Louisiana	7	District of Columbia	1
Oklahoma	6	Maryland	1
Arkansas	5	Minnesota	1
California	5	Missouri	1
Georgia	3	Montana	1
New York	3	North Carolina	1
Pennsylvania	3	New Jersey	1
South Carolina	3	New Mexico	1
Alabama	2	Oregon	1
Arizona	2	Virginia	1
Indiana	2	West Virginia	1
Michigan	2		
Ohio	2	Total	517

35

#### DENVER

A total of 190 handguns was submitted by the Denver Police Department for tracing. Of these, 36 were untraceable and 154, or 81 percent of those submitted, were successfully traced. Of the 154 traceable weapons:

Eleven, or 7 percent, were **stolen**.

There were 119 **revolvers** and 35 **semi-automatic pistols** for a popularity ratio of more than 3 to 1.

**Short barreled handguns** totaled 89, or 58 percent of the total.

**Small caliber handguns** accounted for 61 percent of the total traced, or 94 weapons.

#### Quality Statistics

Class 1	33 guns	21%
Class 2	32 guns	21%
Class 3	89 guns	58%

Fifty-two of the 154 handguns, or 34 percent were **Saturday Night Specials**.

The major sources for the Denver handguns were Colorado, 120 guns, or 78%; Texas, 6 guns, 4%; and California, 4 guns, 3%.

## COMPOSITE FINDINGS

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### PHASE II

#### Prior to GCA - 37 guns

1. Colorado	22 guns	60%
2. Arizona	2 guns	5%
3. Minnesota	2 guns	5%
4. Texas	2 guns	5%

#### 36 After GCA - 117 guns

1. Colorado	98 guns	84%
2. California	4 guns	3%
3. Texas	4 guns	3%
4. Oklahoma	2 guns	2%

Of 190 guns received for tracing, 1 out of every 4 (48 of 190) crime guns were in circulation less than 1 year before becoming involved in some type of police action, and 76 percent (117 of 154) of the guns traced came into street circulation subsequent to the Gun Control Act of 1968.

Of the 154 Denver crime guns, 63 were traced to a pawnshop/loan shop source. Of these 63 guns, 38 (60 percent) were Saturday Night Specials. 73 percent of all Denver Saturday Night Specials (38 of 52) came from pawnshop sources.

#### STATISTICAL SUMMARY DENVER

Class 1 (\$100 or more)	33	21%
Class 2 (\$50 - \$100)	32	21%
Class 3 (less than \$50)	89	58%
Semi-automatic pistols	35	23%
Revolvers	119	77%
Short Barrel	95	62%
Long Barrel	59	38%
Small Caliber	94	61%
Large Caliber	60	39%



## COMPOSITE FINDINGS

### PHASE II

#### SUMMARY SOURCES OF HANDGUNS DENVER

STATE	NO. GUNS	STATE	NO. GUNS	
Colorado	120	Iowa	1	
Texas	6	Illinois	1	
California	4	Montana	1	
Arizona	3	New Mexico	1	
Oklahoma	3	Nevada	1	37
Kansas	2	Ohio	1	
Minnesota	2	Tennessee	1	
Alaska	1	Virginia	1	
Alabama	1	West Virginia	1	
Arkansas	1			
Connecticut	1	Total	154	
Georgia	1			

#### STREET AGE OF CRIME GUNS DENVER

	No. Guns	Percent of total	Cumulative Percent
(1974)			
Less than 1 year (1973)	48	25%	25%
1-2 years (1972)	33	17	42
2-3 years (1971)	18	10	52
3-4 years (1970)	11	6	58
4-5 years (1969)	7	3	61
5-6 years (1968)	10	5	66
6-7 years (1967)	6	3	69
7-8 years (1966)	6	3	72
8-9 years (1965)	3	2	74
9-10 years (1964)	3	2	76
Over 10 years	37	20	96
Unable to determine	8	4	100%
Tracing data base	190	100%	

#### PAWNSHOPS AS SOURCES DENVER

Total Handguns traced	154
No. with Pawnshop as source	63
Percent of Total traced	41%
Total No. Saturday Night Specials	52
No. of Saturday Night Specials with Pawnshops as source	38
Percent of Saturday Night Specials with Pawnshops as Source	73%

## COMPOSITE FINDINGS

### PHASE II

#### KANSAS CITY

A total of 314 handguns was submitted by the Kansas City Police Department for tracing. Of these, 92 were untraceable, and 222, or 71 percent of those submitted were successfully traced. Of the 222 traceable weapons:

Thirty-eight, or 17 percent, were **stolen**.

There were 159 **revolvers** and 63 **semi-automatic pistols** for a popularity ratio of about 5 to 2.

**Short barreled handguns** totaled 145, or 65% of the total.

**Small caliber handguns** accounted for 61% of the total, or 136 weapons.

#### Quality Statistics

Class 1	64 guns	29%
Class 2	45 guns	20%
Class 3	113 guns	51%

Sixty-eight of the 222 weapons, or 31% were **Saturday Night Specials**.

The major sources for the Kansas City handguns were Missouri, 77 guns or 35%; Kansas, 57 guns, or 26%; and Arkansas and Texas 11 guns each, or 5%.

#### Prior to GCA - 104 guns

1. Missouri	32 guns	31%
2. Kansas	27 guns	26%
3. Texas	5 guns	5%
4. Illinois	4 guns	4%
5. Mississippi	4 guns	4%

#### After GCA - 118 guns

1. Missouri	45 guns	38%
2. Kansas	30 guns	25%
3. Arkansas	8 guns	7%
4. Oklahoma	7 guns	6%
5. Texas	6 guns	5%

Of the total 314 guns received for tracing, analysis indicated that 13% of the crime guns—about 1 out of every 7—were in circulation less than 1 year before becoming involved in some type of police action. Slightly more than half of the guns traced came into street circulation subsequent to the Gun Control Act of 1968.

Of the 222 Kansas City crime guns, 45 were traced to a pawnshop/loan shop source. Of these 45, 30 (67%) were Saturday Night Specials. Forty-four percent of all Kansas City Saturday Night Specials came from pawnshop sources.

## COMPOSITE FINDINGS

### PHASE II

#### STATISTICAL SUMMARY KANSAS CITY

Class 1 (\$100 or more)	64	29%	<b>39</b>
Class 2 (\$50 - \$100)	45	20%	
Class 3 (less than \$50)	113	51%	
Semi-automatic pistols	63	28%	
Revolvers	159	72%	
Short Barrel	145	65%	
Long Barrel	77	35%	
Small Caliber	136	61%	
Large Caliber	86	39%	

#### SUMMARY SOURCES OF HANDGUNS KANSAS CITY

STATE	NO. GUNS	STATE	NO. GUNS
Missouri	77	North Carolina	2
Kansas	57	Ohio	2
Arkansas	11	Arizona	1
Texas	11	District of Columbia	1
Mississippi	8	Florida	1
Oklahoma	7	Indiana	1
Illinois	6	Maryland	1
Iowa	4	Minnesota	1
Washington	4	Montana	1
California	3	New Mexico	1
Colorado	3	New York	1
Louisiana	3	South Dakota	1
Nevada	3	Utah	1
Tennessee	3	Virginia	1
Georgia	2		
Nebraska	2	Total	222

## COMPOSITE FINDINGS

### PHASE II

#### STREET AGE OF CRIME GUNS KANSAS CITY

	(1974) (1973)	NO. GUNS	PERCENT OF TOTAL	CUMULATIVE PERCENT
Less than 1 year		42	14%	14%
1-2 years (1972)		28	9	23
2-3 years (1971)		21	7	30
3-4 years (1970)		14	4	34
4-5 years (1969)		10	3	37
5-6 years (1968)		29	9	46
6-7 years (1967)		13	4	50
7-8 years (1966)		9	3	53
8-9 years (1965)		14	4	57
9-10 years (1964)		6	2	59
Over 10 years		115	37	96
Unable to determine		<u>13</u>	<u>4</u>	100%
Tracing data base		314	100%	

#### PAWNSHOPS AS SOURCES KANSAS CITY

Total Handguns traced	222
No. with Pawnshop as source	45
Percent of total traced	20%
Total No. of Saturday Night Specials	68
No. of Saturday Night Specials with Pawnshop as Source	30
Percent of Saturday Night Specials with Pawnshop as Source	44%

#### OAKLAND

A total of 245 handguns was submitted by the Oakland Police Department for tracing. Of these, 56 were untraceable, and 189, or 77 percent of those submitted, were successfully traced. Of the 189 traceable weapons:

Nine handguns, or 5 percent, were **stolen**.

There were 150 **revolvers** and 39 **semi-automatic pistols** for a popularity ratio of about 4 to 1.

**Short barreled handguns** totaled 149 or 79% of the total.

**Small caliber handguns** accounted for 62% of the total or 118 weapons.

## COMPOSITE FINDINGS

### PHASE II

#### QUALITY STATISTICS

Class 1	45 guns	24%
Class 2	28 guns	15%
Class 3	116 guns	61%

Ninety of the 189 weapons or 48% were **Saturday Night Specials**.

The major sources for the Oakland handguns were California, 140 guns, or 74%; and Texas, 6 guns, or 3%.

41

#### Prior to GCA - 50 guns

1. California	27 guns	54%
2. Louisiana	3 guns	6%
3. Georgia	2 guns	4%
4. Nevada	2 guns	4%
5. New York	2 guns	4%
6. Washington	2 guns	4%

#### After GCA - 139 guns

1. California	113 guns	81%
2. Texas	6 guns	4%
3. Georgia	3 guns	2%

Of the total 245 guns received for tracing, analysis showed that 26% of the crime guns—about 1 out of every 4—were in circulation less than 1 year before becoming involved in some type of police action, and 73% of the guns traced came into street circulation subsequent to the Gun Control Act of 1968.

Of the 189 Oakland crime guns, 77 were traced to a pawnshop/loan shop source. Of these 77, 55 (71%) were Saturday Night Specials. Sixty-one percent of all Oakland Saturday Night Specials came from pawnshop sources.

#### STATISTICAL SUMMARY

##### OAKLAND

Class 1 (\$100 or more)	45	24%
Class 2 (\$50-\$100)	28	15%
Class 3 (less than \$50)	116	61%
Semi-automatic pistols	39	21%
Revolvers	150	79%
Short Barrel	149	79%
Long Barrel	40	21%
Small Caliber	118	62%
Large Caliber	71	38%



## COMPOSITE FINDINGS

## PHASE II

SUMMARY  
SOURCES OF HANDGUNS  
OAKLAND

STATE	NO. GUNS	STATE	NO. GUNS
California	140	Indiana	1
Texas	6	Minnesota	1
Georgia	5	Missouri	1
Louisiana	5	Montana	1
Nevada	4	New Jersey	1
42 Arizona	3	New Mexico	1
Arkansas	2	Ohio	1
Colorado	2	Oklahoma	1
New York	2	Pennsylvania	1
South Carolina	2	Utah	1
Virginia	2	West Virginia	1
Washington	2	Wyoming	1
Florida	1		
Illinois	1	Total	189

STREET AGE OF CRIME GUNS  
OAKLAND

	No. Guns	Percent of total	Cumulative Percent
(1974)			
Less than 1 year (1973)	63	26%	26%
1-2 years (1972)	24	10	36
2-3 years (1971)	28	11	47
3-4 years (1970)	17	7	54
4-5 years (1969)	8	3	57
5-6 years (1968)	7	3	60
6-7 years (1967)	7	3	63
7-8 years (1966)	7	3	66
8-9 years (1965)	5	2	68
9-10 years (1964)	5	2	70
Over 10 years	55	22	92
Unable to determine	<u>19</u>	<u>8</u>	100%
Tracing data base	245	100%	

PAWNSHOPS AS SOURCES  
OAKLAND

Total Handguns Traced	189
No. with Pawnshop as Source	77
Percent of Total Traced	41%
Total No. of Saturday Night Specials	90
No. of Saturday Night Specials with Pawnshops as Source	55
Percent of Saturday Night Specials with Pawnshops as Source	61%

## COMPOSITE FINDINGS

### PHASE III

Miami/Dade County, Minneapolis/St. Paul, Philadelphia, Seattle

Phase III of Project I included the areas of Miami/Dade County, Florida; Minneapolis/St. Paul; Philadelphia and Seattle. The period covered was July 1, 1974, to Oct. 1, 1974, 90 days.

During that time, police in those localities submitted for tracing 2,452 handguns, of which 922 were untraceable. ATF traced 1,530, or 62 percent of the total received:

Ninety-one, or 4 percent, were **stolen**.

43

There were 1,842 **revolvers** and 591 **semi-automatic pistols** for a popularity ratio of about 3 to 1.

**Short barreled handguns** totaled 1,652 or 67% of the total.

**Small caliber handguns** accounted for 53% of the total or 1,304 weapons.

#### Quality Statistics

Class 1	880 guns	36%
Class 2	440 guns	18%
Class 3	1,132 guns	46%

Seven hundred and four of the 2,452 weapons submitted, 29 percent, were **Saturday Night Specials**.

The analysis of **street age** for the 1,530 handguns successfully traced showed that 70 percent, or 1,073, came into circulation subsequent to the Gun Control Act of 1968.

Of the 1,530 handguns successfully traced, 209, or 14 percent, were traced to a pawnshop/loan shop source. The remaining 1,321 handguns were traced to other retail licensees.

The inexpensive Class 3 (under \$50) continued to be the most popular handgun and accounted for 46 percent or 1,132 of all guns seized. Eleven manufacturers accounted for 72% of all handguns submitted for tracing.

#### STATISTICAL SUMMARY

##### Phase III COMPOSITE

(Data Base for Analysis is 2,425, total received from field)

Class 1 (\$100 or more)	880	36%
Class 2 (\$50 - \$100)	440	18%
Class 3 (less than \$50)	1,132	46%
Semi-automatic pistols	591	24%
Revolvers	1,842	75%
Other	19	1%
*Short Barrel	1,652	69%
Long Barrel	755	31%
**Small Caliber	1,304	53%
Large Caliber	1,142	47%

\*Does not include 45 firearms of unknown barrel length

\*\*Does not include six firearms showing gauge instead of caliber, or unknown caliber

## COMPOSITE FINDINGS

### PHASE III

#### SATURDAY NIGHT SPECIALS

##### Phase III

##### COMPOSITE

(Data Base for Analysis is 2,425; total received from field)

Saturday Night Specials	704	29%
(Data Base is 1,530; total successfully traced)		
Saturday Night Specials	447	29%

#### STREET AGE OF CRIME GUNS

##### PHASE III

##### COMPOSITE

(Data Base is 1,530; total successfully traced)

Prior to enactment of GCA (12/16/68)	457	30%
After enactment of GCA	1,073	70%

#### PAWNSHOPS AS HANDGUN SOURCES

##### PHASE III

##### COMPOSITE

(Data Base is 1,530; total successfully traced)

No. with pawnshops as source	209	14%
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#### MIAMI

A total of 632 handguns was submitted by the Miami Police Department for tracing. Of these, 196 were untraceable. Four hundred and thirty-six, or 69 percent of those submitted, were successfully traced. Of the 632 weapons submitted for tracing:

Five, or 1 percent, were **stolen**.

There were 478 **revolvers** and 153 **semi-automatic pistols** for a popularity ratio of about 3 to 1.

**Short barreled handguns** totaled 410 or 65% of the total.

**Small caliber handguns** accounted for 45% of the total or 287 weapons.

##### Quality Statistics

Class 1	240 guns	38%
Class 2	88 guns	14%
Class 3	304 guns	48%

One hundred, or 25% of all weapons submitted were

##### Saturday Night Specials.

Major sources for the Miami handguns were Florida, 356 guns, 82 percent; Georgia 12 guns, 3 percent; and Ohio, 8 guns, 2 percent.

Seventy-four percent of the 436 crime guns—3 out of every 4—came into street circulation subsequent to the Gun Control Act of 1968.

Of the 436 Miami crime guns, 49, or 11 percent, were traced to a pawnshop/loan shop source. The remaining 89 percent, or 387 guns, were traced to other retail licensees (sporting goods, hardware and miscellaneous other businesses).

## COMPOSITE FINDINGS

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### PHASE III

#### STATISTICAL SUMMARY MIAMI

(Data Base for Analysis is 632; total received from field)

Class 1 (\$100 or more)	240	38%
Class 2 (\$50 - \$100)	88	14%
Class 3 (less than \$50)	304	48%
Semi-automatic pistols	153	24%
Revolvers	478	76%
Other	1	-
		<b>45</b>
Short Barrel	410	64%
*Long Barrel	218	35%
Small Caliber	287	45%
Large Caliber	345	55%

#### STREET AGE OF CRIME GUNS MIAMI

(Data Base is 436; total successfully traced)

Prior to enactment of GCA (12/16/68)	113	26%
After enactment of GCA	323	74%

#### PAWNSHOPS AS HANDGUN SOURCES MIAMI

(Data Base is 436; total successfully traced)

No. with pawnshops as source	49	11%
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#### SUMMARY SOURCES OF HANDGUNS MIAMI

STATE	NO. GUNS	STATE	NO. GUNS
Florida	356	Michigan	2
Georgia	12	North Carolina	2
Ohio	8	Wisconsin	2
California	5	Colorado	1
Illinois	5	District of Columbia	1
Texas	5	Kentucky	1
Alabama	4	Maryland	1
New York	4	Nebraska	1
Pennsylvania	4	Nevada	1
South Carolina	4	New Mexico	1
Tennessee	4	Utah	1
Louisiana	3	Virginia	1
Missouri	3	Idaho	0
Arizona	2		
Indiana	2	Total	436

\*Does not include four of unknown barrel length.

## COMPOSITE FINDINGS

### PHASE III

#### DADE COUNTY

The Dade County Police Department submitted 325 handguns for tracing. Two hundred and sixteen, or 66 percent of those submitted, were successfully traced and 109 were untraceable. Of the 326 weapons submitted for tracing:

Two, or less than 1 percent, were **stolen**.

There were 231 **revolvers** and 86 **semi-automatic pistols** for a popularity ratio of almost 3 to 1.

46 **Short barreled handguns** totaled 231 or 71% of the total.

**Small caliber handguns** accounted for 47% of the total or 152 weapons.

#### Quality Statistics

Class 1	104 guns	32%
Class 2	33 guns	10%
Class 3	188 guns	58%

Ninety-seven of the 325 weapons, or 30 percent, were **Saturday Night Specials**. Sixty-one, or 28 percent of the 216 successfully traced weapons, also were **Saturday Night Specials**.

Leading sources of Dade County handguns were: Florida, 185 guns, 86 percent; Georgia, 4 guns, 2 percent; and Texas, 4 guns, 2 percent.

Seventy-six percent of the 216 crime guns—3 out of every 4—came into street circulation subsequent to the Gun Control Act of 1968.

Of the 216 traced crime guns, 48, or 22 percent, were traced to a pawnshop/loan shop source. The remaining 78 percent, or 168 guns, were traced to other retail licensees (sporting goods, hardware and miscellaneous other businesses).

#### STATISTICAL SUMMARY DADE COUNTY

(Data Base for Analysis is 325; total received from field)

Class 1 (\$100 or more)	104	32%
Class 2 (\$50 - \$100)	33	10%
Class 3 (less than \$50)	188	58%
Semi-automatic pistols	86	26%
Revolvers	231	72%
Other	8	2%
Short Barrel	231	71%
*Long Barrel	80	25%
Small Caliber	152	47%
**Large Caliber	167	51%

\*Does not include 14 guns with unknown barrel length

\*\*Does not include six guns with calibers listed as gauges.



## COMPOSITE FINDINGS

### PHASE III

#### STREET AGE OF CRIME GUNS DADE COUNTY

(Data Base is 216; total successfully traced)

Prior to enactment of GCA (12/16/68)	51	24%
After enactment of GCA	165	76%

47

#### PAWNSHOPS AS HANDGUN SOURCES DADE COUNTY

(Data Base is 216; total successfully traced)

No. with pawnshops as source	48	22%
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#### SUMMARY SOURCES OF HANDGUNS DADE COUNTY

STATE	NO. GUNS	STATE	NO. GUNS
Florida	185	Colorado	1
Georgia	4	Iowa	1
Texas	4	Kansas	1
Louisiana	3	Kentucky	1
Ohio	3	Missouri	1
Alabama	2	Pennsylvania	1
California	2	South Carolina	1
New York	2	Tennessee	1
Virginia	2		
Arkansas	1	Total	216

#### PHILADELPHIA

A total of 993 handguns was submitted by the Philadelphia Police Department for tracing. Five hundred and seventy-one, or 58% of those submitted, were successfully traced and 422 were untraceable. Of 993 weapons submitted for tracing:

Seventy-nine, or 8 percent, were *stolen*.

There were 787 **revolvers** and 201 **semi-automatic pistols** for a popularity ratio of almost 4 to 1.

**Short barreled handguns** totaled 733 or 74% of the total.

**Small caliber handguns** accounted for 59% of the total or 585 weapons.

#### Quality Statistics

Class 1	360 guns	36%
Class 2	210 guns	21%
Class 3	423 guns	43%

## COMPOSITE FINDINGS

### PHASE III

Three hundred and twenty-three of the 993 weapons, or 33 percent, were **Saturday Night Specials**. One hundred and ninety-two, or 34 percent, of the 571 successfully traced weapons, also were **Saturday Night Specials**.

Major sources of origin were Pennsylvania, 306 guns, 54 percent; Virginia, 54 guns, 9 percent; South Carolina, 48 guns, 8 percent; and Florida, 31 guns, 5 percent.

48 Sixty-nine percent of the 571 crime guns—2 out of every 3—came into street circulation subsequent to the Gun Control Act of 1968.

Of the 571 traced Philadelphia crime guns, 46, or 8 percent were traced to a pawnshop/loan shop source. The remaining 92 percent of 525 guns were traced to other retail licensees (sporting goods, hardware and miscellaneous other businesses).

#### STATISTICAL SUMMARY PHILADELPHIA

(Data Base for Analysis is 993; total received from field)

Class 1 (\$100 or more)	360	36%
Class 2 (\$50 - \$100)	210	21%
Class 3 (less than \$50)	423	43%
Semi-automatic pistols	201	20%
Revolvers	787	79%
Other	5	1%
Short Barrel	733	74%
*Long Barrel	251	26%
Small Caliber	585	59%
Large Caliber	408	41%

#### STREET AGE OF CRIME GUNS PHILADELPHIA

(Data Base is 571; total successfully traced)

Prior to enactment of GCA (12/16/68)	178	31%
After enactment of GCA	393	69%

#### PAWNSHOPS AS HANDGUN SOURCES PHILADELPHIA

(Data Base is 571; total successfully traced)

No. with pawnshops as source	46	8%
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\*Does not include nine guns with unknown barrel length.

## COMPOSITE FINDINGS

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### PHASE III

#### SUMMARY SOURCES OF HANDGUNS PHILADELPHIA

STATE	NO. GUNS	STATE	NO. GUNS	
Pennsylvania	306	Missouri	3	
Virginia	54	Wisconsin	3	
South Carolina	48	Delaware	2	
Florida	31	Illinois	2	
Georgia	24	Kansas	2	
Texas	12	Louisiana	2	
New Jersey	10	New Mexico	2	49
West Virginia	9	Tennessee	2	
Alabama	8	Alaska	1	
North Carolina	8	Hawaii	1	
Ohio	8	Iowa	1	
California	6	Maine	1	
Mississippi	6	Michigan	1	
Kentucky	5	Utah	1	
Maryland	4	Washington	1	
New York	4			
Arkansas	3	Total	571	

#### SEATTLE

The Seattle Police Department submitted 219 handguns for tracing. One hundred and twenty-nine, or 59 percent of those submitted, were successfully traced and 90 were untraceable. Of the 219 weapons submitted for tracing:

One, or less than 1 percent, was **stolen**.

There were 155 **revolvers** and 63 **semi-automatic pistols** for a popularity ratio of approximately 2 to 1.

**Short barreled handguns** totaled 119 or 54 percent of the total.

**Small caliber handguns** accounted for 50 percent of the total or 110 weapons.

#### Quality Statistics

Class 1	85 guns	39%
Class 2	36 guns	16%
Class 3	98 guns	45%

Fifty of the 219 weapons, or 23 percent were **Saturday Night Specials**. Thirty-five, or 27 percent, of the 129 successfully traced weapons, also were **Saturday Night Specials**.

Major sources by states of origin were Washington, 98 guns, 76 percent; California, 8 guns, 6 percent; and Alaska, 4 guns, 3 percent.

Sixty percent of the 129 crime guns came into street circulation subsequent to the Gun Control Act of 1968.

Of the 129 Seattle crime guns, 41 or 32 percent, were traced to a pawnshop/loan shop source. The remaining 68 percent, or 88 guns, were traced to other retail licensees (sporting goods, hardware and miscellaneous other businesses).

## COMPOSITE FINDINGS

### PHASE III

#### STATISTICAL SUMMARY

##### SEATTLE

(Data Base for Analysis is 219; total received from field)

	Class 1 (\$100 or more)	85	39%
	Class 2 (\$50 - \$100)	36	16%
	Class 3 (less than \$50)	98	45%
	Semi-automatic pistols	63	29%
50	Revolvers	155	70%
	Other	1	1%
	Short Barrel	119	56%
	*Long Barrel	93	44%
	Small Caliber	110	50%
	Large Caliber	109	50%

#### STREET AGE OF CRIME GUNS

##### SEATTLE

(Data Base is 129; total successfully traced)

Prior to enactment of		
GCA (12/16/68)	52	40%
After enactment		
of GCA	77	60%

#### PAWNSHOPS AS HANDGUN SOURCES

##### SEATTLE

(Data Base is 129; total successfully traced)

No. with pawnshops		
as source	41	32%

#### SUMMARY

##### SOURCES OF HANDGUNS

##### SEATTLE

STATE	NO. GUNS	STATE	NO. GUNS
Washington	98	Florida	1
California	8	Illinois	1
Alaska	4	Kentucky	1
Colorado	2	Michigan	1
Louisiana	2	South Carolina	1
Tennessee	2	Puerto Rico	1
Texas	2		
Arkansas	1	Total	129

\*Does not include seven guns with unknown barrel length.

## COMPOSITE FINDINGS

### PHASE III

#### ST. PAUL

A total of 81 handguns was submitted by the St. Paul Police Department for tracing. Forty-nine, or 60 percent of those submitted, were successfully traced and 32 were untraceable. Of the 81 weapons submitted for tracing:

Three, or 4 percent, were **stolen**.

There were 56 **revolvers** and 22 **semi-automatic pistols** for a popularity ratio of almost 3 to 1.

**Short barreled handguns** totaled 35 or 43 percent of the total.

51

**Small caliber handguns** accounted for 58 percent of the total or 47 weapons.

#### Quality Statistics

Class 1	28 guns	35%
Class 2	23 guns	28%
Class 3	30 guns	37%

Sixteen of the 81 weapons or 20 percent were **Saturday Night Specials**. Nine, or 18 percent, of the 40 successfully traced weapons also were **Saturday Night Specials**.

Major sources by states of origin were Minnesota, 30 guns, 61 percent; Wisconsin, 4 guns, 8 percent; and Iowa, 2 guns, 4 percent.

Sixty-seven percent of the 49 crime guns—2 out of every 3—came into street circulation subsequent to the Gun Control Act of 1968.

Of the 49 traced crime guns, 8, or 16 percent, were traced to a pawnshop/loan shop source. The remaining 84 percent or 41 guns were traced to other retail licensees (sporting goods, hardware and miscellaneous other businesses).

#### STATISTICAL SUMMARY ST. PAUL

(Data Base for Analysis is 81, total received from field)

Class 1 (\$100 or more)	28	35%
Class 2 (\$50 - \$100)	23	28%
Class 3 (less than \$50)	30	37%
Semi-automatic pistols	22	27%
Revolvers	56	69%
Other	3	4%
Short Barrel	35	43%
*Long Barrel	41	51%
Small Caliber	47	58%
Large Caliber	34	42%

\*Does not include five guns with unknown barrel length



## COMPOSITE FINDINGS

### PHASE III

#### STREET AGE OF CRIME GUNS

##### ST. PAUL

(Data Base is 49, total successfully traced)

Prior to enactment of GCA (12/16/68)	16	33%
After enactment of GCA	33	67%

52

#### PAWNSHOPS AS HANDGUN SOURCES

##### ST. PAUL

(Data Base is 49; total successfully traced)

No. with pawnshops as source	8	16%
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#### SUMMARY

##### SOURCES OF HANDGUNS

##### ST. PAUL

STATE	NO. GUNS	STATE	NO. GUNS
Minnesota	30	Nebraska	1
Wisconsin	4	New York	1
Iowa	2	Oklahoma	1
Arizona	1	Tennessee	1
Arkansas	1	Texas	1
Colorado	1	Utah	1
Illinois	1	Wyoming	1
Kansas	1		
Michigan	1	Total	49

#### MINNEAPOLIS

A total of 202 handguns was submitted by the Minneapolis Police Department for tracing. One hundred and twenty-nine, or 64 percent of those submitted, were successfully traced and 73 were untraceable. Of the 202 weapons submitted for tracing:

One, or less than 1 percent, were **stolen**.

There were 135 **revolvers** and 66 **semi-automatic pistols** for a popularity ratio of almost 2 to 1.

**Short barreled handguns** totaled 124 or 61 percent of the total.

**Small caliber handguns** accounted for 61 percent of the total or 123 weapons.

#### Quality Statistics

Class 1	63 guns	31%
Class 2	50 guns	25%
Class 3	89 guns	44%

Sixty-three of the 202 weapons, or 31 percent, were **Saturday Night Specials**. Forty-four, or 34 percent, of the 129 successfully traced weapons, also were **Saturday Night Specials**.

## COMPOSITE FINDINGS

### PHASE III

Major sources by state of origin were Minnesota, 102 guns, 79 percent; Texas, 5 guns, 4 percent; and Illinois, 4 guns, 3 percent. Sixty-four percent of the 129 crime guns—2 out of every 3—came into street circulation subsequent to the Gun Control Act of 1968.

Of the 129 crime guns traced, 17, or 13 percent, were traced to a pawnshop/loan shop source. The remaining 87 percent, or 112 guns, was traced to other retail licensees (sporting goods, hardware and miscellaneous other businesses).

53

#### STATISTICAL SUMMARY MINNEAPOLIS

Class 1 (\$100 or more)	63	31%
Class 2 (\$50 - \$100)	50	25%
Class 3 (less than \$50)	89	44%
Semi-automatic pistols	66	33%
Revolvers	135	67%
Other	1	-
Short Barrel	124	61%
*Long Barrel	72	36%
Small Caliber	123	61%
Large Caliber	79	39%

#### STREET AGE OF CRIME GUNS MINNEAPOLIS

(Data Base is 129, total successfully traced)

Prior to enactment of GCA (12/16/68)	47	36%
After enactment of GCA	82	64%

#### PAWNSHOPS AS HANDGUN SOURCES MINNEAPOLIS

(Data Base is 129; total successfully traced)

No. with pawnshops as source	17	13%
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#### SUMMARY SOURCES OF HANDGUNS MINNEAPOLIS

STATE	NO. GUNS	STATE	NO. GUNS
Minnesota	102	Louisiana	1
Texas	5	Michigan	1
Illinois	4	Mississippi	1
California	2	Missouri	1
Kansas	2	Montana	1
Ohio	2	Nebraska	1
Arizona	1	Virginia	1
Colorado	1	Wisconsin	1
Florida	1		
Iowa	1	Total	129

\*Does not include six guns with unknown barrel length.

COMPOSITE FINDINGS

PHASE IV

Boston, Charlotte, Louisville, Los Angeles

Phase IV included Boston, Charlotte, Louisville and Los Angeles and covered 1,421 handguns picked up by police in those cities in crimes from Jan. 15, 1975, to April 15, 1975, 90 days.

Eight hundred and twenty-eight, or 58 percent, were successfully traced and 593 were untraceable. Of the 1,421 weapons submitted for tracing:

54      thirty-one, or 2 percent, were *stolen*.

There were 1,041 **revolvers** and 380 **semi-automatic pistols** for a popularity ratio of almost 3 to 1.

**Short barreled handguns** totaled 897 or 63 percent of the total.

**Small caliber handguns accounted for 53 percent of the total or 758 weapons.**

Quality Statistics

Class 1	475 guns	33%
Class 2	252 guns	18%
Class 3	694 guns	49%

Four hundred and forty-five of the 1,421 weapons submitted, or 31 percent, were **Saturday Night Specials**.

The analysis of street age for the 828 handguns successfully traced showed that 78 percent, or 643, came into circulation after the Gun Control Act of 1968.

Of the 828 handguns successfully traced, 208, or 25 percent, were traced to a pawnshop/loan shop source. The remaining 620 handguns were traced to other retail licensees. One hundred and twenty-two, or 59 percent, of the 208 handguns traced to pawn/loan businesses fell within the Saturday Night Special criteria.

The inexpensive Class 3 (under \$50) was the most popular handgun and accounted for 49 percent or 694 of all guns seized.

STATISTICAL SUMMARY

Phase IV  
COMPOSITE

(Data Base for Analysis is 1,421, total received from field)

Class 1 (\$100 or more)	475	33%
Class 2 (\$50 - \$100)	252	18%
Class 3 (less than \$50)	694	49%
Semi-automatic pistols	380	27%
Revolvers	1,041	73%
Short Barrel	897	63%
Long Barrel	524	37%
Small Caliber	758	53%
Large Caliber	663	47%

## COMPOSITE FINDINGS

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### PHASE IV

#### STREET AGE OF CRIME GUNS

##### Phase IV COMPOSITE

(Data Base is 828; total successfully traced)

Prior to enactment of GCA (12/16/68)	185	22%
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After enactment of GCA	643	78%
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55

#### PAWNSHOPS AS HANDGUN SOURCES

(Data Base is 828; total successfully traced)

No. with pawnshops as source	208	25%
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#### SATURDAY NIGHT SPECIALS

##### Phase IV COMPOSITE

Saturday Night Specials	445	31%
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(Data Base for Analysis is 1,421; total  
received from field)

Saturday Night Specials	276	33%
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(Data Base is 828; total successfully traced)

#### BOSTON

The Boston Police Department submitted 171 handguns for tracing. Of these 84, or 49 percent, were traced successfully and 87 were untraceable. Of the 171 submitted for tracing:

Three, or 2 percent, were *stolen*.

There were 111 **revolvers** and 60 **semi-automatic pistols** for a popularity ratio of almost 2 to 1.

**Short barreled handguns** totaled 112 or 65 percent of the total.

**Small caliber handguns** accounted for 56 percent of the total or 95 weapons.

##### Quality Statistics

Class 1	74 guns	43%
Class 2	40 guns	24%
Class 3	57 guns	33%

COMPOSITE FINDINGS  
PHASE IV

Forty-six of the 171 weapons submitted or 27 percent, were **Saturday Night Specials**. Twenty-one, or 25 percent, of the 84 guns successfully traced, were **Saturday Night Specials**.

Sources for the Boston handguns were analyzed, based upon the total of 84 successfully traced weapons.

The results indicated that 4, or 5 percent of all Boston crime guns successfully traced, were purchased from dealers in Boston; with 30 percent being sold in other Massachusetts cities. The remaining 65 percent were sold retail in other states. Among these other States, the leading sources of handguns were Florida, 11 percent, and South Carolina, 7 percent.

Also analyzed was the **street age** of the handguns traced. This statistic was obtained from the total 84 successfully traced. Seventy percent of the crime guns came into street circulation subsequent to the Gun Control Act of 1968.

Of the 84 Boston crime guns, 6, or 7 percent, were traced to a pawn/loan type business. The remaining 78, or 83 percent, were traced to other retail licensees.

During examination of these pawn/loan handguns, it was determined that 5, or 83 percent of these weapons, were Saturday Night Specials. In addition, when compared to the total number of Saturday Night Specials found in Boston, the pawn/loan businesses contributed 24 percent of all Saturday Night Specials successfully traced whereas this type of business was the source of 7 percent of the total crime guns successfully traced.

STATISTICAL SUMMARY  
BOSTON

(Data Base for Analysis is 171, total received from field)

Class 1 (\$100 or more)	74	43%
Class 2 (\$50 - \$100)	40	24%
Class 3 (less than \$50)	57	33%
Semi-automatic pistols	60	35%
Revolvers	111	65%
Short Barrel	112	65%
Long Barrel	59	35%
Small Caliber	95	56%
Large Caliber	76	44%



# COMPOSITE FINDINGS

## PHASE IV

### STREET AGE OF CRIME GUNS

#### BOSTON

(Data Base is 84; total successfully traced)

Prior to enactment of GCA (12/16/68)	25	30%	
After enactment of GCA	59	70%	57

### PAWNSHOPS AS HANDGUN SOURCES

#### BOSTON

(Data Base is 84; total successfully traced)

No. with pawnshops as source	6	7%
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### SUMMARY

#### SOURCES OF HANDGUNS

##### BOSTON

STATE	NO. GUNS
Massachusetts	29
Florida	9
South Carolina	6
Georgia	5
Virginia	5
Texas	4
New Hampshire	3
Pennsylvania	3
Alabama	2
Illinois	2
Kentucky	2
Michigan	2
North Carolina	2
Connecticut	1
Iowa	1
Maryland	1
Missouri	1
New York	1
Ohio	1
Rhode Island	1
Tennessee	1
Vermont	1
Total	84

## COMPOSITE FINDINGS

### PHASE IV

#### CHARLOTTE

The Charlotte Police Department submitted 107 handguns for tracing. Sixty-eight, or 64 percent of those submitted, were successfully traced and 39 were untraceable. Of the 107 weapons submitted for tracing:

Eight, or 7 percent, were **stolen**.

There were 86 **revolvers** and 21 **semi-automatic pistols** for a popularity ratio of almost 4 to 1.

58 **Short barreled handguns** totaled 77, or 72 percent, of the total.

**Small caliber handguns** accounted for 56 percent of the total or 60 weapons.

#### Quality Statistics

Class 1	35 guns	33%
Class 2	14 guns	13%
Class 3	58 guns	54%

Forty-eight of the 107 weapons, or 45 percent, were **Saturday Night Specials**. Thirty-one, or 46 percent, of the 68 successfully traced weapons also were **Saturday Night Specials**.

Analysis of the 68 successfully traced weapons indicated that 15, or 22 percent, were purchased from dealers in Charlotte, with 21 percent being sold in other North Carolina cities and the remaining 57 percent being sold to the public in other states. Among these, the leading sources of handguns were South Carolina, 29 percent, and Georgia, 9 percent.

Analysis of the **street age**, based on the 68 successfully traced, showed that 72 percent came into street circulation subsequent to the Gun Control Act of 1968.

Of the 68 Charlotte crime guns, 12, or 18 percent, were traced to a pawn/loan type business. The remaining 56, or 82 percent, were traced to other retail licensees.

These pawn/loan handguns showed that 8, or 67 percent, were Saturday Night Specials. In addition, when compared to the total number of Saturday Night Specials found in Charlotte, the pawn/loan businesses contributed 26 percent of all Saturday Night Specials successfully traced whereas this type of business was the source of 18 percent of the total crime guns successfully traced.

## COMPOSITE FINDINGS

### PHASE IV

#### STATISTICAL SUMMARY CHARLOTTE

(Data Base for Analysis is 107 total received from field)

Class 1 (\$100 or more)	35	33%	
Class 2 (\$50 - \$100)	14	13%	
Class 3 (less than \$50)	58	54%	
Semi-automatic pistols	21	20%	
Revolvers	86	80%	59
Short Barrel	77	72%	
Long Barrel	30	28%	
Small Caliber	60	44%	
Large Caliber	47	56%	

#### STREET AGE OF CRIME GUNS CHARLOTTE

(Data Base is 68, total successfully traced)

Prior to enactment of GCA (12/16/68)	19	28%
After enactment of GCA	49	72%

#### PAWNSHOPS AS HANDGUN SOURCES CHARLOTTE

(Data Base is 68; total successfully traced)

No. with pawnshops as source	12	18%
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#### SUMMARY SOURCES OF HANDGUNS CHARLOTTE

STATE	NO. GUNS
North Carolina	29
South Carolina	20
Georgia	6
Virginia	5
Florida	3
Arkansas	1
Arizona	1
California	1
Kentucky	1
Ohio	1
Total	68

## COMPOSITE FINDINGS

### PHASE IV

#### LOS ANGELES

The Los Angeles Police Department submitted 816 handguns for tracing. Four hundred and sixty-two, or 57 percent were traced successfully and 354 were untraceable. Of the 816 weapons submitted for tracing:

Nine, or 1 percent, were **stolen**.

There were 597 **revolvers** and 219 **semi-automatic pistols** for a popularity ratio of almost 3 to 1.

60 **Short barreled handguns** totaled 457 or 56 percent of the total.

**Small caliber handguns** accounted for 51 percent, or 417 weapons.

#### Quality Statistics

Class 1	266 guns	33%
Class 2	149 guns	18%
Class 3	401 guns	49%

Two hundred and thirty-one of the 816 Los Angeles guns, 28 percent, were **Saturday Night Specials**. One hundred and forty-one, 31 percent, of the 462 successfully traced weapons also were **Saturday Night Specials**.

Of the 462 successfully traced weapons, 178, or 39 percent, were purchased from dealers in Los Angeles, with 43 percent sold in other California cities and the remaining 18 percent sold to the public in other states. Among the other states, the leading sources of handguns were Texas, 3 percent, and Georgia, 2 percent.

Analysis of the **street age**, based on the total 462 successfully traced, showed 79 percent came into circulation subsequent to the Gun Control Act of 1968.

Of the 462 Los Angeles crime guns, 117, or 25 percent, were traced to a pawn/loan type business. The remaining 345, or 75 percent, were traced to other retail licensees.

Of these pawn/loan handguns, 69, or 59 percent, were Saturday Night Specials. In addition, when compared to the total number of Saturday Night Specials found in Los Angeles, the pawn/loan businesses contributed 49 percent of all Saturday Night Specials successfully traced whereas this type of business was the source of 25 percent of the total crime guns successfully traced.

## COMPOSITE FINDINGS

## PHASE IV

## STATISTICAL SUMMARY

## LOS ANGELES

(Data Base for Analysis is 816; total received from field)

Class 1 (\$100 or more)	266	33%	61
Class 2 (\$50 - \$100)	149	18%	
Class 3 (less than \$50)	401	49%	
Semi-automatic pistols	219	27%	61
Revolvers	597	73%	
Short Barrel	457	56%	61
Long Barrel	359	44%	
Small Caliber	417	51%	61
Large Caliber	399	49%	

## STREET AGE OF CRIME GUNS

## LOS ANGELES

(Data Base is 462; total successfully traced)

Prior to enactment of GCA (12/16/68)	96	21%
After enactment of GCA	366	79

## PAWNSHOPS AS HANDGUN SOURCES

## LOS ANGELES

(Data Base is 462; total successfully traced)

No. with pawnshops as source	117	25%
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## SUMMARY

## SOURCES OF HANDGUNS

## LOS ANGELES

STATE	NO. GUNS	STATE	NO. GUNS
California	378	Alabama	2
Texas	13	Kentucky	2
Georgia	7	Ohio	2
Louisiana	6	Washington	2
Colorado	5	Idaho	1
Arizona	4	Iowa	1
Florida	4	Kansas	1
Illinois	4	Maryland	1
Mississippi	4	Michigan	1
Oregon	4	Missouri	1
Virginia	4	North Carolina	1
Arkansas	3	New Mexico	1
Indiana	3	New York	1
Oklahoma	3		
South Carolina	3	Total	462



## COMPOSITE FINDINGS

### PHASE IV

#### LOUISVILLE

A total of 327 handguns was submitted from the Louisville Police Department for tracing. Two hundred and fourteen, or 65 percent of those submitted, were successfully traced and 133 were untraceable. Of the 327 weapons submitted for tracing:

- 62    Eleven, or 5 percent, were **stolen**.  
       There were 247 **revolvers** and 80 **semi-automatic pistols** for a popularity ratio of 3 to 1.  
       **Short barreled handguns** totaled 251 or 77 percent of the total.  
       **Small caliber handguns** accounted for 57 percent, or 186 weapons.

#### Quality Statistics

Class 1	100 guns	31%
Class 2	49 guns	15%
Class 3	178 guns	54%

One hundred and twenty of the 327 guns, or 37 percent, were **Saturday Night Specials**. Eighty-three, 39 percent of the 214 successfully traced weapons, also were **Saturday Night Specials**.

Based upon the total of 214 successfully traced weapons, 138, or 64 percent, were purchased from dealers in Louisville, with 18 percent in other Kentucky cities. The remaining 18 percent was sold to the public in other states. Among these, leading sources of handguns were Indiana, 3 percent, and California, 2 percent.

Analysis of the **street age** of the handguns traced, based on the total 214 successfully traced, showed that 79 percent of the crime guns came into street circulation subsequent to the Gun Control Act of 1968.

Of the 214 Louisville crime guns, 73, or 34 percent, were traced to a pawn/loan type business. The remaining 141, or 66 percent, were traced to other retail licensees.

Of these pawn/loan handguns, 40, or 55 percent, were **Saturday Night Specials**. In addition, when compared to the total number of **Saturday Night Specials** found in Louisville, the pawn/loan businesses contributed 48 percent of all **Saturday Night Specials** successfully traced whereas this type of business was the source of 34 percent of the total crime guns successfully traced.

# COMPOSITE FINDINGS

## PHASE IV

### STATISTICAL SUMMARY LOUISVILLE

(Data Base for Analysis is 327; total received from field)

Class 1 (\$100 or more)	100	31%	
Class 2 (\$50 - \$100)	49	15%	
Class 3 (less than \$50)	178	54%	
Semi-automatic pistols	80	24%	
Revolvers	247	76%	63
Short Barrel	251	77%	
Long Barrel	76	23%	
Small Caliber	186	57%	
Large Caliber	141	43%	

### STREET AGE OF CRIME GUNS LOUISVILLE

(Data Base is 214; total successfully traced)

Prior to enactment of GCA (12/16/68)	45	21%
After enactment of GCA	169	79%

### PAWNSHOPS AS HANDGUNS SOURCES LOUISVILLE

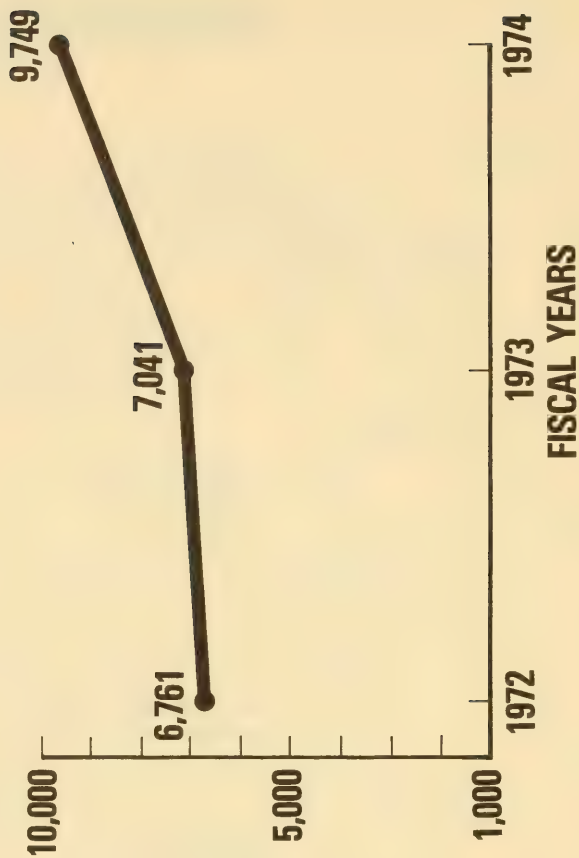
(Data Base is 214; total successfully traced)

No. with pawnshops as source	73	34%
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### SUMMARY SOURCES OF HANDGUNS LOUISVILLE

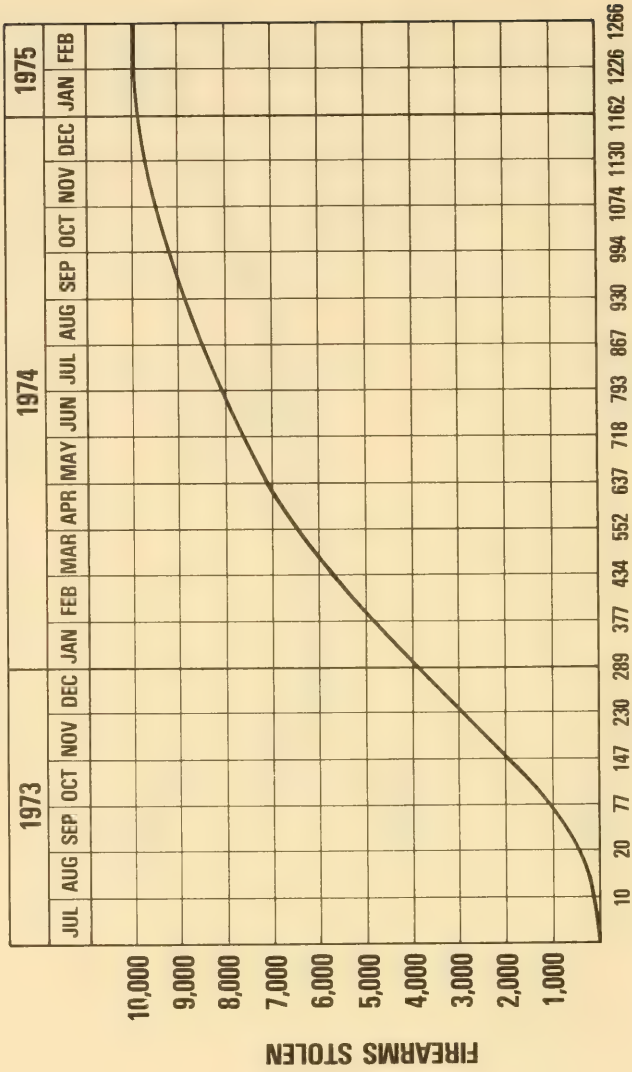
STATE	NO. GUNS	STATE	NO. GUNS
Kentucky	176	Texas	2
Indiana	6	Alaska	1
California	5	Tennessee	1
Alabama	4	Virginia	1
Mississippi	4	Washington	1
Arkansas	3	West Virginia	1
Illinois	3	Wyoming	1
Ohio	3		
Missouri	2	Total	214

# ***ATF ENFORCEMENT REFERRALS - NON-BUREAU VIOLATIONS***



OF THE 9,749 REFERRALS OF INFORMATION TO OTHER  
LAW ENFORCEMENT AGENCIES IN FY-74, APPROXIMATELY 88%  
WERE MADE TO STATE AND LOCAL POLICE AGENCIES. THE  
DRUG ENFORCEMENT ADMINISTRATION WAS THE LEADING FEDERAL  
RECIPIENT OF ATF REFERRALS.

# INTERSTATE FIREARMS THEFT PROJECT





INTERSTATE FIREARMS THEFT PROJECTBriefing Paper

Background - Under the Gun Control Act of 1968 it is unlawful to receive, conceal, store, barter, sell or dispose of any stolen firearms or ammunition which is moving in interstate commerce. However, while the GCA specifically sets forth these violations it does not contain any requirement that thefts or losses of firearms or ammunition be reported to any federal, state or local law enforcement agency.

Subsequent to the enactment of the act, as the Bureau expanded its firearms criminal enforcement activities, it became more and more apparent that a significant enforcement problem existed - at both the federal and local levels - with relation to the great number of firearms annually stolen or lost in transit. Such weapons, particularly when not reported to a law enforcement agency at the time of loss, are in great demand by the criminal element due to their inherent lack of trace potential.

To address this problem the Bureau, as a pilot project on July 1, 1973, and as a nationwide program on September 1, 1973, initiated the Interstate Firearms Theft Program. The objectives of the program were twofold: first, to deny the criminal element a virtually unchecked source of firearms; and, second, to put into operation a system whereby all interstate carriers, on a voluntary basis, immediately notify the Bureau of all thefts or losses of firearms moving in interstate commerce.

Operation of the Program - At the inception of the program approximately 28,000 carriers were made aware of the program through an extensive campaign of news releases, radio and television publicity, trucking industry news organs, meetings with heads of trucking associations and by ATF representation at transportation security conferences and conventions. In addition, ATF personnel personally visited over 2,500 trucking companies to solicit their cooperation in the program.

Each interstate carrier in the country has been furnished a supply of pre-addressed, postage free, fill-in forms. Upon discovery of a loss the carrier merely fills in the applicable blanks, mails the form to ATF and telephones the same information to the nearest ATF regional office. ATF immediately initiates an investigation which includes notification of the loss to the local police department and the local office of the FBI and the entering of the loss data into the NCIC and TECS computer systems.

- 2 -

Results: Statistical Summary - As of February 21, 1975, a total of ; 1,256 reports of lost or stolen firearms have been received by ATF ; involving approximately 10,000 firearms. Twenty-two criminal cases involving 44 defendants have been perfected. Approximately 1,000 firearms have been recovered under the program by ATF alone or working in coordination with local enforcement authorities.

Results: - Significant Cases

Kansas City - On September 17, 1973, an informer advised an ATF special agent that a subject had shown him several firearms believed to be stolen. The informer memorized the serial number and discription of one of the weapons and gave this information to the special agent. The special agent determined that this weapon was one of 28 that had been stolen from a carrier on September 5, 1973. The investigation resulted in the arrest of two subjects and the recovery of seven of the stolen weapons.

Maine - On September 23, 1973, the theft of 56 shotguns from a carrier was reported to ATF. On October 6, 1973, two persons were arrested and 55 of the 56 weapons were recovered.

New Jersey - On October 4, 1973, a carrier reported the theft of 4 handguns. On October 18, 1973, special agents arrested two persons and recovered the four weapons.

North Carolina - On April 22, 1974, 275 handguns were reported stolen enroute from Miami, Florida to Chapin, South Carolina. In May 1974 ATF recovered 251 of these handguns in North Carolina and presented two subjects for prosecution.

Current Status of the Program - We are at present analysing the results of this program to date to determine future direction. Several factors indicate that a comprehensive and in-depth review of the program is now in order:

1. Manpower availability with relation to work priorities:

The initiation of the operational phase of the Significant Criminal Enforcement Program - Armed and Dangerous on November 1, 1974, has, of necessity, reduced the manpower availability for the Interstate Firearms Theft Program. As we begin to assume our operational waging responsibilities we anticipate a further and substantial manpower availability drain with relation to the Interstate Theft Program.

- 3 -

2. A decrease in the incidents of reported thefts:

Through approximately the first 10 months of the program the number of reported thefts averaged about 75 per month; since November 1, 1974, the average has decreased to about 45 per month. We are currently coordinating with the American Trucking Association and the Department of Transportation, cargo Security Branch in an attempt to determine if this decline in reported thefts represents an actual decline in thefts or whether the carriers are failing to report all thefts.

3. A growing awareness on the part of those engaged in the interstate transportation of firearms of the magnitude of the theft problem:

While we would not be so presumptuous to infer that this growing awareness has been occasioned by our Bureau program we do believe the theft statistics gathered under the program and discussed freely with representatives of the manufacturers and carriers has had significant impact on their thinking with relation to a need for greater internal security. Several recent security innovations give encouraging example that these manufacturers and carriers are well aware of the theft problem and that they are determined to institute corrective measures:

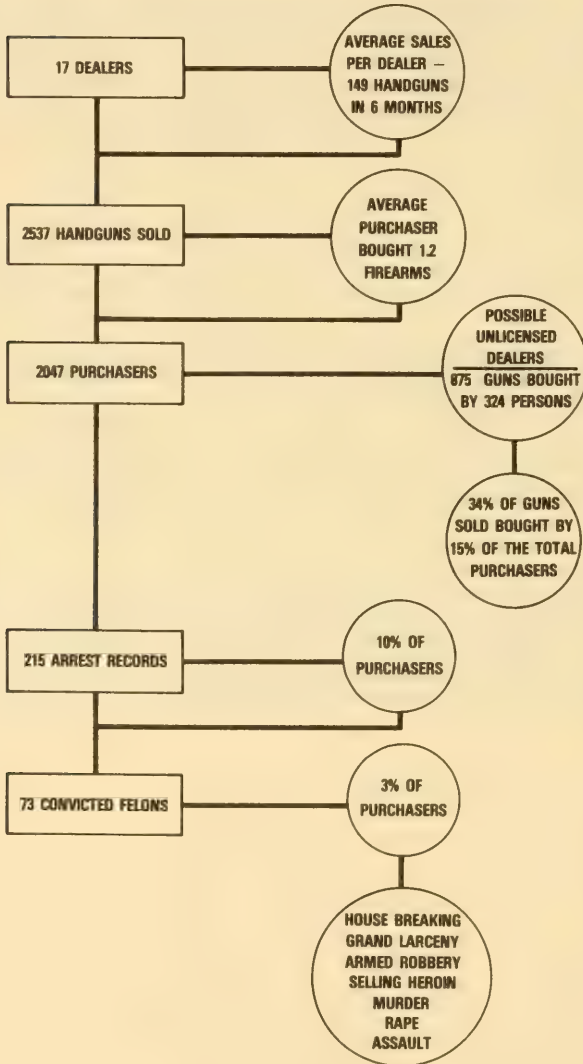
a. In January 1975, Colt Industries instituted a new air-containerized shipment procedure which will reduce the number of firearms shipments per year to about 350. Under this program Colt will no longer ship to retail dealers, but only to 160 distributors throughout the country. All shipments will be sealed in tri-wall aluminum containers and will be kept under armed guard until loaded into the aircraft. The distributor will have a selected carrier on hand to meet the aircraft and immediately deliver the cargo to the distributor for immediate inventory.

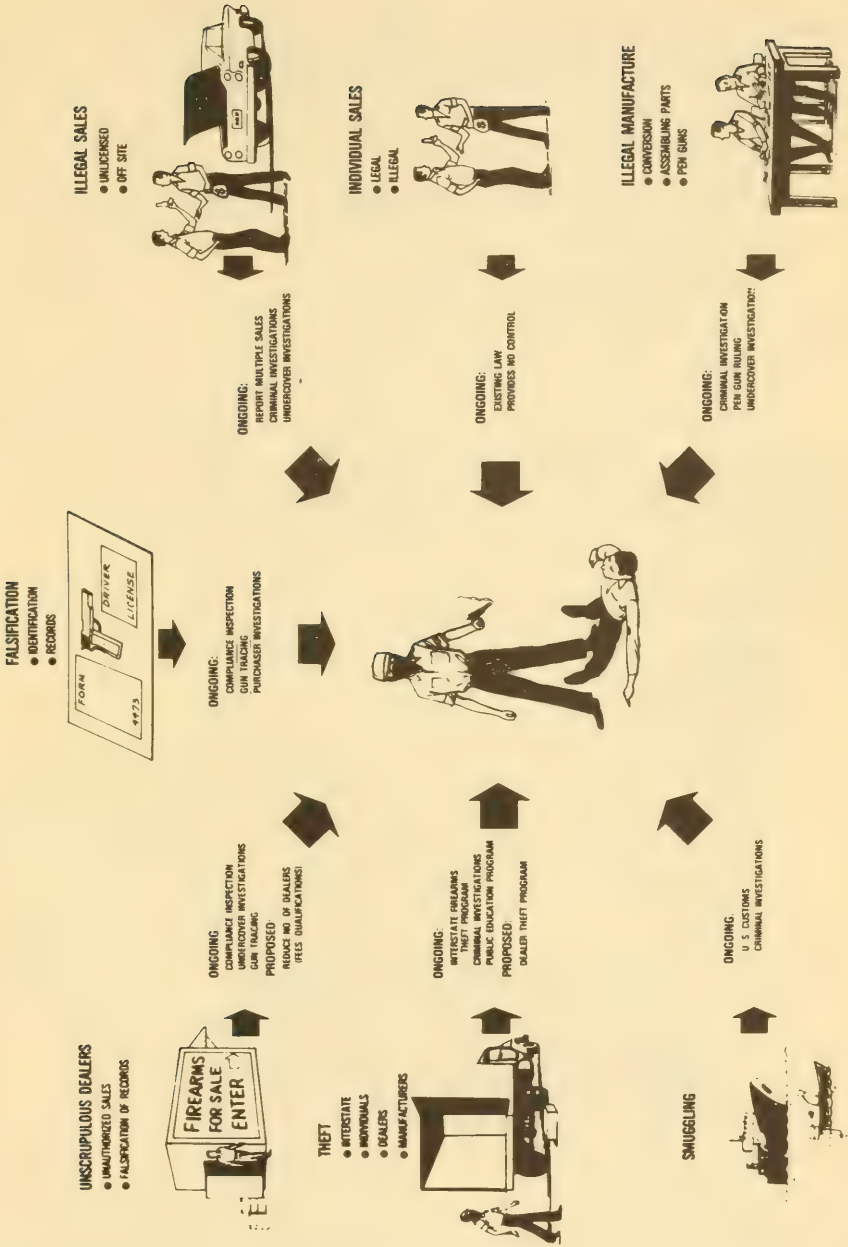
b. United Parcel Service, as a result of extreme loss problems, has installed electronic metallic detectors at six of their "hubs" located in the New York and Philadelphia areas. We believe such a move can produce meaningful results in this regard it should be noted that 20 of the 44 persons arrested under this program were employees of the company reporting the theft.

In addition to the above, specific examples of problem awareness on the part of firearms manufacturers and carriers the Bureau has, since the inception of the program received excellent cooperation from the manufacturers, the trucking industry, freight claim associations, transportation security officers associations and the Sporting Arms and Ammunition Institute. Likewise the Department of Transportation has contributed greatly to our endeavors in this area.

# GREENVILLE PROJECT

*(SURVEY OF HANDGUN SALES BY LICENSED DEALERS IN GREENVILLE, S.C. (5/1/74 - 10/31/74))*







This picture shows the general methods by which criminals obtain firearms, and the ways in which the Bureau of Alcohol, Tobacco and Firearms interposes itself between the source and the criminal. There are seven main ways in which criminals obtain guns:

1. Falsification of firearms transaction records.
2. Illegal sales by licensed and unlicensed dealers.
3. Individual sales.
4. Illegal manufacture.
5. Smuggling.
6. Theft.
7. Unscrupulous dealers.

Each of the above general methods can involve several different specific procedures for obtaining firearms, and they are separately described below. Also described are the ATF methods, both ongoing and proposed, of combating each specific problem.

1. Falsification of firearms transaction records.

- a. Problem. The falsification of records can be accomplished by the criminal with or without the collusion of the licensed dealer. The convicted felon may state on Treasury Form 4473, Firearms Transaction Record, that he has never been convicted of a felony. An out-of-state purchaser may exhibit false identification to the licensee, claiming that he lives in the state in which he is buying the firearm. The dealer, conspiring with the criminal, can falsify his disposition records as to the identity of the purchaser of a particular firearm.
- b. ATF solutions. The Bureau has several ongoing programs designed to detect the falsification of records required to be kept by licensed dealers:
  - (1) Compliance inspection. ATF special agents and inspectors make spot checks of licensee records and inventories. In this manner, they can

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detect possible record falsification by dealers and discrepancies in dealer inventory records.

(2) Purchaser investigations. This procedure generally takes place during compliance inspections, but can be done at any time. The inspecting officer lists the names of firearms purchasers and checks their criminal records. He may contact individual purchasers to verify that they in fact purchased firearms listed as having been sold to them. Some dealers have been known to list several guns as sold to one purchaser, who actually bought only one firearm. The other listed guns were sold to criminals.

(3) Gun tracing. The Bureau maintains the National Firearms Tracing Center, which traces about 32,000 guns annually for any law enforcement agency desiring a trace. This procedure can reveal recordkeeping violations, as well as assist law enforcement officers in the performance of their duties.

## 2. Illegal sales.

### a. Problems.

(1) Sales by unlicensed dealers. These are sales made by persons who obtain, either legally or illegally, large numbers of firearms, and engage in business as firearms dealers without obtaining licenses and without keeping transaction records. Generally, they do not obtain identification from the purchaser of a firearm.

(2) Off-site sales by licensees. A license issued to a dealer is valid only when he does business at his place of business. Usually, when a dealer deals at places other than his business premises, he does so with firearms that he has not recorded in his acquisition records. He then does not record the sale. This method, as well as the above, makes the tracing of a particular firearm almost impossible.

-3-

- b. ATF solutions. . The following are ongoing programs to suppress the types of sale described above:

- (1) Report of multiple sale of handguns.  
This is a new program, which will begin in the next few months. Licensees will report to ATF any sale of two or more handguns to one person at one time or within five business days. In this manner, ATF will have the information needed to investigate those persons who are buying handguns for resale as an unlicensed dealer. Before this, ATF special agents had to learn about unlicensed dealers through normal methods of investigation.
- (2) Criminal investigations, including undercover operations. As with all crimes under ATF jurisdiction, our special agents utilize a number of methods to detect the crime and apprehend the criminal. These include the use of confidential informers, surveillance of suspects, and to a large extent, undercover operations. ATF special agents are encouraged to infiltrate criminal operations and to gain the confidence of violators. This enables our special agents to purchase guns from suspected unlicensed dealers and from dealers who sell guns away from their licensed premises. Every special agent can work undercover, but we have recently begun specialized undercover training for selected special agents. This will enhance our ability to infiltrate sophisticated operations.

3. Individual sales.

- a. Problem. Criminals obtain some of their guns by purchasing them from individuals. The seller is not required to obtain identification from the purchaser, nor does the purchaser have to certify that he is not a prohibited person. This type of sale is legal in many cases. If the private individual sells across state lines, he is in violation, but in practice, is rarely detected or prosecuted. If the private seller is engaged in business without a license, he of course is prosecutable as an unlicensed dealer.

- b. ATF solutions. Existing law provides no effective control of this problem. Private sales rarely come to light, and often, the lack of required records makes a trace of the firearm impossible.

#### 4. Illegal manufacture.

- a. Problems. There are various types of firearms manufactured illegally. Firearms can be newly assembled from parts manufactured for the illegal market, or from parts stolen from manufacturers. They can also be made by converting something not intended as a firearm into a firearm, such as items commonly known as pen guns, designed ostensibly as gas guns for defensive purposes. Other pen guns are manufactured with the specific purpose of being used as firearms.

- b. ATF solutions.

- (1) The Bureau has recently ruled that all items commonly known as "pen guns" are firearms within the purview of Chapter 44, Title 18, United States Code, and must be manufactured and sold in compliance with all regulations governing manufacture and sale of firearms. This ruling also makes the purchase subject to all provisions of the Gun Control Act.
  - (2) As with any violation, ATF special agents combat the illegal manufacturing of firearms through the normal methods of criminal investigation, including undercover activities.

#### 5. Smuggling.

- a. Problems. Although smuggling is primarily a crime within the purview of the Customs Laws of the United States, the Bureau of ATF, because of its jurisdiction under the Gun Control Act, has a large stake in eliminating the flow of foreign made firearms into this country. It is impossible to estimate the number of firearms smuggled into the United States annually by professional and amateur smugglers. Most such weapons have been brought back in recent years from combat zones by returning servicemen.

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- b. ATF solutions. The Bureau cooperates with the Customs Service in a free interchange of information, and handles primarily the domestic aspects of the smuggling problem, by normal criminal investigative techniques. We frequently uncover firearms which were illegally brought into the United States, and jointly work with the Customs Service in attempting to bring such activities to a halt.

6. Theft.

- a. Problems. Guns are stolen from almost every possible source; interstate carriers, manufacturers, dealers and individuals. The Bureau estimates that more than 100,000 handguns alone are stolen yearly from the public, while about 6,000 firearms are stolen from interstate shipments every year. These firearms, when used in a crime, are impossible to trace to the person(s) who used them for criminal purposes.
- b. ATF solutions. We are attempting to cope with this problem in several ways:
- (1) The Interstate Firearms Theft Program, implemented in 1973, asks that manufacturers and common carriers report to ATF all thefts and losses of firearms from interstate shipments. To date, we have received about 1,260 loss or theft reports involving 10,000 firearms. Working alone and with other agencies, our special agents have recovered about 1,000 firearms and have arrested forty-four persons.
  - (2) Public Education Program. The Bureau informs industry and the public of the firearms theft problem in various ways. We distribute posters to common carriers and licensees and stress the problem in public appearances by our special agents and in television spots.
  - (3) Criminal Investigations. When ATF is advised of a theft from an interstate shipment, special agents immediately investigate or assist other agencies with their investigations, if possible. As always, all normal methods of investigation are used.



- (4) Proposed Dealer Theft Program. We are just finishing a survey of licensed dealers to attempt to measure the extent of thefts from licensed dealers. If warranted, we may institute a program similar to the Interstate Theft Program.

7. Unscrupulous Dealers.

- a. Problems. This source of firearms is closely connected with Items 1 and 2 of this paper. The dealer who is allied with the criminal can provide him with guns in many ways, from falsifying records to selling guns on dark country roads.
- b. ATF solutions.
- (1) Ongoing. Our effort centers on the normal procedures of compliance inspections, undercover investigations and gun tracing.
- (2) Proposed. This problem could possibly be alleviated by a reduction in the number of licensed dealers. Study is being made of possible higher license fees and stricter qualifications for prospective licensees.



## INTERNATIONAL TRAFFIC IN FIREARMS

The Gun Control Act of 1968 and Title XI of the Organized Crime Control Act of 1970 (Regulation of Explosives) provide the Bureau of Alcohol, Tobacco and Firearms the statutory powers to structure effective enforcement programs to cope with illegal international gunrunning activities that originate in the United States. Firearms, ammunition and explosives, illegally exported from the United States, very frequently are acquired within the United States in direct violation of the Gun Control Act and Title XI of the Organized Crime Control Act of 1970. By exercising its right of inspection under Federal laws and regulations, ATF frequently detects violations by licensees manipulating acquisition and disposition records for the purpose of diverting or conspiring to illegally export arms to terrorists and organized criminals operating in other countries. Inspection of dealers' records will often uncover purchasers fraudulently executing dealers' transaction records to acquire firearms and explosives for illegal exportation. It is ATF's firm policy to perfect prosecutable criminal cases against all such individuals and other persons violating Federal laws pertaining to the illegal flow of arms and explosives in interstate and foreign commerce.

Since September 1971, ATF has been involved in investigating Irish Republican Army (IRA) gunrunning activities in the United States. Numerous successful prosecutions of IRA "gunrunners" violating the Gun Control Act have resulted. Most notable and significant to date was the recent conviction in Baltimore, Maryland, of five IRA "gunrunners" charged with 23 violation counts of the 1968 Gun Control Act including using fictitious names, counterfeiting federal firearms licenses and illegally transporting firearms and explosive devices across state lines. Seized from the defendants were 70 of the 158 illegally purchased Colt AR-15, .223 caliber, semi-automatic rifles destined for the IRA in Northern Ireland.

Other significant cases involving the successful prosecution of IRA "gunrunners" violating the provisions of the Federal firearms laws are outlined in the attachment.

As a result of the recent recurring illegal exportation of firearms, ammunition and explosives from the United States into Mexico, causing serious problems of mutual concern for both governments, ATF developed and implemented its Firearms to Mexico Program. Essentially an interdiction program, its objective is to curtail the illegal exportation of arms and explosives from the United States to political dissidents and criminals in Mexico. The program requires that vital intelligence information specified by ATF be exchanged promptly between Mexican and United States officials and that stricter border inspections be instituted by both countries. Since March 1974, when the program was institutionalized by U.S. and Mexican officials in Mexico City, some significant progress has been made.

On April 11, 1974, information was received that a Mexican citizen was in San Antonio for the purpose of purchasing arms and ammunition to be smuggled into Mexico. The Mexican citizen was placed under surveillance and arrested by ATF as he left San Antonio and proceeded to the border. He was charged with a Title I Gun Control Act violation when he was found in possession of one rifle, one shotgun, four handguns and 900 rounds of ammunition. When arrested the Mexican citizen possessed fictitious identification indicating that he was a Special Agent with the Judicial Police in the Mexican state of Hidalgo. In purchasing the firearms and ammunition he utilized a fictitious Texas driver's license for identification.

In the latter part of March 1974, ATF received information that two large illegal purchases of ammunition were to take place in El Paso, Texas. ATF joined with U.S. Customs and maintained surveillance of the purchase transactions. The buyers were then tailed to Presidio, some 250 miles southeast of El Paso, where U.S. Customs made six arrests and seized 148,500 rounds of .22 caliber ammunition, three trucks and one automobile. The ammunition was hidden under loads of grocery items destined for Ojinaga, Chihuahua, Mexico. One of the defendants was a manager of Radio Station XEOG in Ojinaga.

In April 1974, Mexican Federal Agents arrested a Mexican fence in Matamoros, Mexico, and seized five firearms. The fence related to Mexican officials that he bought the guns from an American who smuggled the weapons into Mexico for purposes of trading them for narcotics. ATF was contacted and asked for assistance in tracing the firearms to identify the seller. The firearms

were discovered to be part of a total of 22 firearms that had been stolen in November 1973 from a hardware store in Mathis, Texas. The Mexican officials turned over the stolen firearms which were returned to their rightful owner.

In July 1974, ATF perfected a Title I GCA case against Vincente H. Rodriguez, a Mexican citizen with a reputation as a smuggler of firearms into Mexico. ATF investigation disclosed that Rodriguez used a fictitious Texas driver's license to purchase 25 firearms from three different dealers in San Antonio. ATF contacted General Motors Acceptance Corporation and acquired the description and license number of the automobile purchased by Rodriguez. This information was then entered by ATF into the Treasury Enforcement Communications System (TECS) computer. When Rodriguez attempted to enter Mexico from the United States, U.S. Customs, acting on the ATF TECS entry, arrested Rodriguez after a search of his vehicle disclosed the illegally purchased firearms.

On November 27, 1974, five Mexican aliens, traveling in two vehicles, were followed by ATF and U.S. Customs agents from Denver, Colorado to El Paso, Texas, where on November 28, they were stopped and arrested as they attempted to enter Mexico via the Cordova Bridge with 75,000 rounds of ammunition. The entire seizure was valued at \$11,000. The vehicle used to transport the ammunition was modified to carry heavy loads of ammunition and indications are that it was so used on previous occasions.

On July 18, 1974, three Mexican aliens purchased 13 M-1 carbines from a licensed dealer in Encino, California, for \$1,000 in cash. A check of local dealers' records by ATF disclosed that the same individuals had purchased at least 15 other M-1 carbines since March 1974. At one licensed dealer's premises they were overheard to remark that they had need for 200 additional M-1 carbines. ATF and U.S. Customs took up surveillance and tailed the principal suspect from his residence in Encino, California, to El Paso, Texas, where he was stopped and arrested at the border. A search of his automobile uncovered 16 new M-1 carbines and one loaded pistol under the front seat. Also found in the vehicle was one 30-06 rifle and four new shotguns.

Although most ATF involvement in the curtailment of the illegal acquisition and exportation of arms from the United States has been in connection with the IRA and Firearms to Mexico Programs, ATF intelligence indicates that gunrunners are purchasing arms in the United States for exportation to organized criminals in Canada and terrorists in the Middle East. Just recently a Canadian national, connected to organized criminal elements in Montreal, sent two Western Union Money Orders totaling \$5050 from Quebec, Canada, to a U.S. citizen in Georgia who purchased 75 various model .38 caliber handguns. It is believed that the handguns were illegally moved in interstate commerce for eventual exportation to criminals operating in Canada.

In February 1975, ATF arrested three Lebanese aliens for illegally purchasing over \$33,000 worth of handguns from a Virginia licensed dealer. One of the defendants has been determined to be an illegal alien and neither of the other two had satisfied the 90 day residence requirement to legally purchase firearms. ATF is coordinating this investigation with U.S. Customs since indications are that the aliens were purchasing weapons for illegal exportation to a Middle East country.

It has been the experience of ATF that political terrorists and organized criminals will attempt to acquire weapons in the international market whenever their domestic sources of supply become inadequate or pose problems of detection. The IRA, denied access to weapons in the United Kingdom, has commissioned its "gunrunners" to purchase arms elsewhere in Europe, the United States, Canada and Latin America. Drug traffickers in Mexico have exchanged narcotics for firearms illegally imported from the United States. Firearms, a scarce commodity in Mexico, command a high price from criminals and political dissidents. Canadian arms traffickers enter the United States to make illegal purchases of firearms for organized criminals in Canada. Recently explosives that were illegally exported from the United States were utilized in bombings that occurred in Haiti. The litany of incidents involving illegal traffic in arms is endless. Quite obviously the problems are very formidable and lack quick or easy solutions.

Although the problems related to effective control of traffic in weapons may not be entirely eliminated, certainly they can be minimized through international cooperation and the establishment of interdiction projects similar to ATF's IRA and Firearms to Mexico Programs.



## ATTACHMENT A

## CASES

*Charles F. Malone.*—Pleaded guilty to Section 1934(c) Title 22 U.S.C. Sentenced to one year (suspended) and placed on probation for two years. He was also fined \$1,000. Malone illegally shipped five firearms to Ireland.

*James O'Gara.*—Convicted for Gun Control Act violations. Use false identification to purchase firearms, some of which were seized in Northern Ireland. Placed on probation.

*Patrick Purcell.*—Illegally purchased over fifty firearms from a federally licensed firearms dealer. Many of these firearms have been seized in Northern Ireland. Fined \$1,500 and placed on five years probation.

*Edward Agromonte.*—A federally licensed firearms dealer who was a major supplier of arms, ammunition and explosives to IRA supporters. Charged with various GCA violations. He pleaded guilty and served one year in prison and is on probation for five years.

*Alfred Schneider.*—Federal firearms dealer who illegally diverted firearms and ammunition to Patrick Purcell (see above). Pleaded guilty—three years probation.

*James Heslin.*—Purchased firearms with false identification. Although none of these firearms have been reported as seized in Northern Ireland, investigation revealed that they were turned over to known IRA gunrunners.

*Henry Hillick, William Westertund, James Conlon, Francis Larkin, Kiernan Francis McMahon.*—The "Baltimore Five". All were convicted and sentenced to prison terms of five years or more.

*Luke Dalton.*—A convicted felon who purchased firearms for the IRA. Case pending.

*John H. Donovan, Jr.*—Assisted Henry Hillick, et al (see above) in illegal arms purchase. Case pending.

*Philip S. Harper, Michael O'Looney.*—Conspired to purchase arms illegally for shipment to Northern Ireland. They have been indicted—case pending.

*Fort Worth "5": Paschal Morahan, Daniel Crawford, Thomas Laffey, Matthias Reilly, Kenneth Tierney.*—This group received a great deal of newspaper publicity and their incarceration received much congressional attention. These five individuals were called before a federal grand jury in Fort Worth, Texas, during the summer of 1972 which was investigating IRA gunrunning. When all five refused to answer questions, they were held in contempt and subsequently jailed. All have since been released.

## DEALER THEFT SURVEY

## BACKGROUND

The Bureau of Alcohol, Tobacco and Firearms is currently attempting to determine whether our manpower and resources will allow for the effective implementation of a nationwide firearms dealer theft program. There are over 150,000 Federal firearms licensees in the United States and thousands of firearms are stolen from their premises each year. This is another source of firearms to the criminal element which we would like to attack.

Although Title I of the Gun Control Act of 1968 requires dealers to maintain records of their receipt and disposition of firearms; the act does not contain any provision requiring licensees to report the loss or theft of handguns or long guns to any Federal, State or local law enforcement agency.

The dealer theft program would initiate a system whereby Federal firearms licensees, on a voluntary basis, will immediately notify ATF of all thefts of firearms or ammunition from their premises or custody. This program would generally follow the guidelines of our current interstate firearms theft project. Upon receipt of a report of theft, ATF would initiate a criminal investigation of the same; ascertain that local law enforcement officials have been apprised of the theft; and enter the stolen weapons into the National Crime Information Center (NCIC).

There is an important difference, as to jurisdiction, between a theft from an interstate shipment and a theft from a dealer's premises. A theft from an interstate shipment of firearms may be prosecuted under Section 922(j) of the Gun Control Act which states that "it shall be unlawful for any person to receive, conceal, store, barter, sell or dispose of any stolen firearm or ammuni-



tion . . . which is moving as, which is part of, or which constitutes interstate commerce. . . ." A theft of handguns or long guns from a dealer, which is strictly intra-state in nature, is not a Federal violation. However, should such weapons come into the hands of a prohibited person (felons, mental incompetents, illegal aliens, etc.) said individual would be subject to Federal prosecution for illegal possession of the firearms. All persons engaged in the thefts from dealers would be primarily in violation of State law. Therefore, the primary objective of the dealer theft program would be to assist State and local authorities in their fight against crime and violence. The secondary objective of the program would be to perfect Federal criminal cases against prohibited persons (particularly felons) found to be in possession of stolen firearms.

#### PURPOSE OF SURVEY

In order to determine the extent of thefts from Federal firearms licensees it was decided that a survey would be conducted among the dealers located in our midwest region. This region, which comprises nine States, (Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota and Wisconsin) would provide us with a 20% sample of all Federal firearms licensees. The results could readily be projected nationwide and give us a reasonably accurate reading as to the scope of the dealer theft problem.

On December 31, 1974, dealer theft survey forms were forwarded to all Federal firearms licensees in the midwest region, except firearms collectors. A total of 30,484 forms were forwarded. The following questions were asked:

During calendar year 1974:

1. Were any firearms stolen from your business?
2. On how many occasions were firearms stolen?
3. List by types, the number of firearms stolen: \_\_\_\_\_ handguns, \_\_\_\_\_ rifles, \_\_\_\_\_ shotguns, \_\_\_\_\_ over/unders.
4. Number of stolen firearms returned to you during 1974.

#### LICENSEE RESPONSE

It was requested that the licensees complete the preaddressed, postage-free form and return it to our Bureau headquarters by January 15, 1975. A total of 23,709 forms were returned. They are categorized as follows:

No thefts.....	21, 885
Out-of-business.....	830
One or more thefts.....	994
Total.....	23, 709

The fact that approximately 23,000 out of 30,000 licensees (roughly 75%) responded to this request, is indicative of the seriousness with which dealers view the problem of firearms thefts.

#### SURVEY RESULTS

The results of the survey were as follows:

Number of dealers reporting thefts.....	994
Total theft incidents.....	1, 367
1-gun theft incidents.....	1, 655
Total firearms stolen.....	5, 919
Handguns.....	2, 426
Rifles.....	1, 584
Shotguns.....	1, 769
Over/unders.....	127
Other weapons.....	13
Firearms recovered.....	1, 290

<sup>1</sup> 49 percent.

Range of firearms thefts from individual dealers. <sup>1</sup>

Number of guns stolen:	Number of incidents	Number of guns stolen—Continued	Number of incidents
1-----	655	60 to 69-----	3
2 to 5-----	240	70 to 79-----	2
6 to 9-----	109	80 to 89-----	0
10 to 19-----	85	90 to 99-----	1
20 to 29-----	31	100 to 124-----	1
30 to 39-----	13	125 to 150-----	1
40 to 49-----	8	Over 150-----	0
50 to 59-----	2		

<sup>1</sup> Some dealers experienced both one-gun and multiple-gun thefts and are therefore included twice above. Others had several multiple gun thefts and are listed once, based on the total number of guns stolen. Therefore the total number of thefts shown above cannot be correlated to the actual number of theft incidents cited earlier.

## PROJECTION

The 23,000 dealers surveyed comprised 15 percent of the 150,000 Federal firearms licensees in the United States. Projecting the midwest regional figures nationwide, the results would be as follows:

Number of dealers reporting thefts-----	6,560
Total theft incidents-----	9,022
1-gun theft incidents-----	<sup>1</sup> 4,420
Firearms stolen-----	39,054
Handguns-----	16,011
Rifles-----	10,454
Shotguns-----	11,675
Over/unders-----	838
Other weapons-----	76
Firearms recovered-----	8,514

<sup>1</sup> 49 percent.

## FINDINGS

Prior to implementing a dealer theft program on a nationwide basis we must consider the projected figures shown above in order to determine whether our manpower and resources will permit us to do an effective job and accomplish our stated objectives in this area.

We could expect to receive approximately 9,000 reports of thefts per year. To investigate each report of theft would incur a heavy drain upon our manpower. Approximately 4,000 of these investigations would involve 1-gun thefts. Such thefts are usually the results of shoplifting or thefts by company employees. In matters of shoplifting there is often no known suspect; and employers are generally reluctant, for union reasons, to press charges against employees in situations of this type. Additionally, many district attorneys will decline to prosecute a 1-gun case.

We also must consider that the present rate of recovery of stolen firearms is approximately twenty percent (20%). This is the norm for recovery of all items stolen from interstate shipments. State and local officers have primary jurisdiction in intra-state thefts. Realizing that there are over 400,000 State and local law enforcement officers in the United States; it is difficult to assume that our present staff of less than 1,600 special agents would have a recognizable impact on the current recovery rate. We would be of greater assistance to State and local law enforcement agencies in assisting them in tracing stolen firearms and working with them when they request our aid; as they often do in firearms, explosives, alcohol and tobacco investigations.

This bureau recognizes that the entry of a Federal law enforcement agency into investigations of local firearms thefts may have some law enforcement or deterrent value. However, in light of our mandated responsibilities to enforce Federal statutes in the areas mentioned above, and also in wagering; we cannot, without a substantial increase in our manpower and budgetary allowances, initiate a nationwide dealer theft program at this time.

## MIDWEST REGION, 1974 DEALER THEFT SURVEY

State	Number of dealers reporting thefts	Number of theft incidents	Firearms stolen					Total firearms stolen	Firearms recovered	1-gun theft incidents
			Hand-guns	Rifles	Shot-guns	Over/unders	Other weapons			
Illinois.....	198	281	528	219	398	13	-----	1,158	242	147
Iowa.....	106	138	237	141	144	13	6	541	200	73
Kansas.....	96	112	345	126	178	6	-----	655	159	53
Minnesota.....	150	231	267	245	289	14	1	816	168	111
Missouri.....	164	217	375	308	350	22	3	1,058	189	90
Nebraska.....	64	77	152	74	70	10	-----	306	105	34
North Dakota.....	36	53	58	55	42	6	-----	161	29	30
South Dakota.....	45	56	106	58	42	-----	-----	209	63	22
Wisconsin.....	135	202	358	358	256	40	3	1,015	135	95
Total.....	994	1,367	2,426	1,584	1,769	127	13	5,919	1,290	655

## RANGE OF THEFTS FROM INDIVIDUAL DEALERS

State	1-gun theft	2-5 guns	6-9 guns	10-19 guns	20-29 guns	30-39 guns	40-49 guns	50-59 guns	60-69 guns	70-79 guns	80-89 guns	90-99 guns	100-124 guns	125-149 guns
Illinois.....	147	40	23	23	5	2	2	-----	-----	-----	-----	-----	1	-----
Iowa.....	73	13	11	2	-----	-----	-----	-----	-----	-----	-----	1	-----	-----
Kansas.....	53	27	9	8	8	-----	2	-----	-----	1	-----	-----	-----	-----
Minnesota.....	111	44	13	11	1	1	3	1	1	-----	-----	-----	-----	-----
Missouri.....	90	37	15	18	11	3	-----	1	1	-----	-----	-----	-----	-----
Nebraska.....	34	21	6	6	2	1	-----	-----	-----	-----	-----	-----	-----	-----
North Dakota.....	30	5	4	4	-----	1	-----	-----	-----	-----	-----	-----	-----	-----
South Dakota.....	22	11	12	3	-----	1	-----	-----	-----	-----	-----	-----	-----	-----
Wisconsin.....	95	42	16	10	4	4	1	-----	1	1	-----	-----	-----	1
Total.....	655	240	109	85	31	13	8	2	3	2	0	1	1	1

<sup>1</sup> Some dealers experienced both 1-gun and multiple-gun thefts and are therefore included twice above. Others had several multiple gun thefts and are listed once, based upon the total number of guns stolen. Therefore the total number of theft incidents shown here cannot be correlated to the actual total theft incidents cited earlier.

**DEPARTMENT OF THE TREASURY**

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, D.C. 20226

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DEPARTMENT OF  
THE TREASURY

TREAS 564

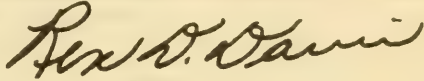
**BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
OPERATIONS DIVISION  
P.O. BOX 784  
BENJAMIN FRANKLIN STATION  
WASHINGTON, D.C. 20044**

(To return fold on this line and tape closed)

Dear Licensee:

The Bureau of Alcohol, Tobacco and Firearms is conducting a survey to determine the number of firearm thefts from licensees and the recovery rate of stolen firearms by licensees. The purposes of the survey are to: 1. determine the magnitude of thefts from licensees, 2. determine the effectiveness of present recovery methods.

Please assist in the survey by completing and mailing this survey form by January 15, 1975. Your cooperation is needed and will be appreciated.



Director

DURING CALENDAR YEAR 1974:

1. Were any firearms stolen from your business (If "No", just return form)

Yes ☐ No ☐

2. On how many occasions were firearms stolen \_\_\_\_\_

3. By types, list number of firearms stolen.

\_\_\_\_\_ Handguns \_\_\_\_\_ Rifles \_\_\_\_\_ Shotguns \_\_\_\_\_ Over/under

4. Of firearms stolen in any year from your business, how many were returned to you in 1974 through recoveries made by law enforcement agencies, insurance companies, self-effort or any other means. \_\_\_\_\_

ATF F 3310.1 TEST (12-74)



## BUREAU OF ALCOHOL, TOBACCO AND FIREARMS SIGNIFICANT CRIMINAL ENFORCEMENT PROGRAM—ARMED AND DANGEROUS

The Significant Criminal Enforcement Program—Armed and Dangerous was designed and developed by the Bureau in order to direct its criminal enforcement resources towards a highly supportive role of other Federal, State and local law enforcement agencies in the investigation and apprehension of the hardened career criminal who often escapes justice even after arrest by State and local officers, as a result of his knowledge of the weaknesses of the criminal justice system at the State or local level.

Two prior Attorney Generals have endorsed the Bureau's Program and as a result thereof, the Department of Justice developed and implemented a Career Criminal Action Program which requires all Federal law enforcement agencies to follow suit. Additionally, the Justice Program provides specialized support to the Bureau and other Federal law enforcement agencies in the form of prosecutive priorities and close coordination.

The President of the United States has directed all Federal law enforcement agencies, including the Bureau, to fully support the Program as a high priority objective. In order to assure the necessary cooperation and priority, the President has established a Career Criminal Task Force to oversee and provide guidance in the planning and implementation of the Program.

The Bureau's program is consistent with the Department of Justice's Career Criminal Action Program.

This program outlines the philosophy underlying the discharge of Federal firearms and explosives control responsibilities by the Bureau of Alcohol, Tobacco and Firearms as mandated by the Secretary of the Treasury. It is consistent also with the concept expressed by the National Advisory Commission on Criminal Justice Standards and Goals, that "Federal laws, if utilized, present a sound legislative base for control of handguns." It adheres to the legislative policy expressed by the Congress of the United States in the following excerpt from the Gun Control Act of 1968: "No provision of this chapter shall be construed as indicating an intent on the part of Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter . . ."

Finally, it adheres to the legislative policy expressed by the Congress in the following excerpt from Title XI of the Organized Crime Control Act of 1970: "To protect interstate and foreign commerce against interference and interruption by reducing the hazard to persons and property arising from misuse and unsafe storage of explosive materials."

The Bureau's Significant Criminal Enforcement Program has two major goals. The first is to investigate those significant violations in which there is a paramount Federal prosecutive interest. The second is to assist State and local law enforcement officials, as appropriate, in the enforcement of State and local firearms and explosives laws.

The licensing and recordkeeping provisions of the Gun Control Act of 1968 and the Organized Crime Control Act of 1970, assist State and local governments in several ways. The licensing system is designed to ensure that only bona fide dealers engage in the firearms and explosives business thereby minimizing the sale to proscribed individuals in violations of state and local laws. The recordkeeping system and the attendant criminal sanctions are designed to reduce the unlawful acquisition of firearms and explosives. In addition, the records provide a means of tracing firearms and explosives that are unlawfully acquired or used in criminal offenses. Thus, it is essential that the Bureau ensure the integrity of the licensing and recordkeeping systems by means of a vigorous inspection and compliance program and thorough investigation of related criminal violations.

### DEFINITIONS AND CRITERIA SIGNIFICANT CRIMINAL—ARMED AND DANGEROUS

An individual identified by the Bureau, as unlawfully acquiring, possessing, transporting or otherwise using or dealing in firearms, explosives or destructive devices and currently and actively engaged in felonious criminal activity which presents a serious threat to the public safety.

Identification as a significant criminal/armed and dangerous requires each of the following criteria :

1. Currently and actively engaged in felonious criminal violations of Federal firearms and/or explosives laws and/or engaged in other felonious criminal violations which present a serious threat to the public safety.



2. Considered a serious threat to the public safety as determined by being one or more of the following categories:

a. *Felon*.—convicted of a crime of violence. (murder, kidnapping, rape, armed robbery, felonious assault, arson, firearms/explosives violations, etc.)

b. *Felon*.—convicted of a crime with high potential towards violence. (robbery, burglary, extortion, hijacking, narcotics, firearms/explosives violations, etc.)

c. *Felon or non-felon active criminal*.—with high potential towards crimes of violence, as documented by specific current and reliable intelligence data. (contract killer, organized crime member, terrorist, fence of stolen firearms/explosives, same as subparagraphs a and b above.)

d. *Firearms/explosives licensee*.—currently and actively engaged in felonious willful violations.

The program specifically complements and supports the needs of other Federal, State and local law enforcement agencies and provides for continuing evaluation and analysis of ATF's efforts, including the utilization of manpower and resources which will provide management precise information in order to avoid overlapping or duplication of other Federal, State and local efforts.

This is a highly selective enforcement program which concerns the Bureau's criminal enforcement efforts on individuals and/or organized criminal groups, identified by the Bureau as significant criminals. These hardcore and sometimes organized criminals or militant factions are national in scope and more sophisticated in their manner, thereby, posing a more difficult problem to State and local law enforcement officials.

The program's prosecutive guidelines require Bureau Agents to selectively develop cases with a high deterrent value and a high prosecutive potential.

Cases referred to ATF by request of other Federal, State and local law enforcement officials, for varying reasons, i.e., poor prosecutors or courts, lack of jurisdiction, etc., must have high prosecutive and deterrent potential.

Criminal and Regulatory Enforcement have assigned high priorities to the control of firearms movement and unlawful possession.

The program directs ATF Special Agents:

1. To exert every effort to ensure that all unlawfully possessed firearms and explosives are lawfully removed from criminals in each instance where possible.

2. Ensure that all firearms and explosives are traced in order to identify their source.

3. That assistance to State and local authorities is a major responsibility of the Bureau. Within our resources, capabilities and jurisdiction, every effort will be made to assist these agencies.

Separate Programs implemented by Criminal Enforcement for the specific purpose of identifying and eliminating the "illegal system providing guns to criminals" Interstate Theft, Dealer Theft, Organized Crime Strike Forces.

#### OTHER

Organized—continuing studies and surveys conducted by ATF: Significant Criminal Enforcement Program—Armed and Dangerous, Project I, Operational Reviews, Case Evaluations, Regional Reviews.

FY 74, the Bureau committed *directly* to State and local assistance: 35% of its total criminal enforcement resources, 6% of its total regulatory enforcement resources, 39.3% of its total technical services resources, 87% of its total laboratory resources, 32,671 State and local officers trained by ATF.

The Bureau of Alcohol, Tobacco and Firearms revenue collections are approximately eight billion dollars annually. We are larger than General Motors, yet we operate on a shoestring, approximately 1.2% of revenue collected.

As of January 31, 1975, Bureau agents had identified 1,007 armed and dangerous significant criminals in the United States. Identification is continuing. Of these, 638 are assigned for active investigation. The remaining 369 are being held in a suspense inventory subject to the availability of manpower and resources. As of this date, Bureau agents have apprehended 184 of these armed and dangerous criminals, who are presently pending prosecutive action.

**Department of the TREASURY**

**NEWS**

**BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
Washington, D.C. 20226 202/961-7268



(ADVANCE FOR USE AT 10 a.m. (FST) Oct. 30, 1974)

FY-75-14

SAN FRANCISCO -- Director Rex D. Davis of the Bureau of Alcohol, Tobacco and Firearms announced today his agency will implement immediately a program in which ATF agents will identify and then make cases against the nation's most hardened criminals.

The project, called "Significant Criminal Enforcement Program -- Armed and Dangerous," Davis said will put ATF on the offensive against the nation's most "violent and dangerous criminals in communities all over the United States."

The identification of these known, dangerous criminals will be made with the cooperation of Federal, State and Local law enforcement officials. Once this identification has been made, ATF agents then will endeavor to make cases against these criminals using the firearms and explosives laws which the Bureau enforces, Davis told a special press conference in San Francisco, held in conjunction with the opening of ATF's new Western Region Offices.

The ATF program is being initiated with the "support of our compatriots in the Department of Justice," Davis noted. "Atty. Gen. William Saxbe recently announced that the Justice Department will increase its efforts against major criminals. Our efforts, closely coordinated with those of the United States Attorneys, will provide a two-pronged attack against major criminals."

(More)

Davis said in the first phase of the program beginning Nov. 1, ATF agents will contact those officials who best know the criminal element of their localities. "These are the local police chiefs, sheriffs and state law enforcement agencies, United States attorneys and Strike Force attorneys."

These officials will be briefed on the purpose of the program and will be asked to supply ATF with the names of those criminals who meet the program criteria. Those criminals eventually chosen as targets of the program will be selected by the appropriate local ATF agents.

Under the Gun Control Act of 1968, the Bureau is charged with providing assistance to any requesting state and local law enforcement agency. This assistance includes specialized law enforcement training, the use of the Bureau's forensic laboratory, the facilities of the ATF National Firearms Tracing Center, and its companion National Explosive Tracing Center, as well as technical and scientific expertise in firearms and explosives.

Davis said Uniform Crime Reports show that from 1968 to 1973, crimes of violence increased 47 per cent.

To fight this crime build up, Davis said ATF has pledged to put to work all of its resources.

(End advance)

Department of the **TREASURY****NEWS****BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
Washington, D.C. 20226 202/961-7268Fact Sheet

Program: Significant Criminal Enforcement Program--  
Armed and Dangerous

Effective: November 1, 1974.

Program Directed By: The Bureau of Alcohol, Tobacco and Firearms (ATF), United States Department of the Treasury. The Bureau enforces federal firearms laws and portions of federal explosives laws.

Purpose:

- 1 A nationwide program intended to identify and bring cases against major, armed criminals who fall within the criteria of the Gun Control Act of 1968 and the Explosives Act of 1970.
- 2 Assist state and local law enforcement officials in the enforcement of firearms and explosives laws.
- 3 Maintain a roster of identified armed and dangerous criminals, and monitor progress in bringing these criminals to justice.

Putting the Program Into Effect:

- 1 ATF agents, stationed in all of the 50 states, will work with state and local law enforcement agencies to identify and list major, active criminals who use guns or explosive devices in the commission of crime.
- 2 ATF will then concentrate its resources into making cases against these criminals. As appropriate, cases developed will be referred to state and local prosecutors for court action.

Definition Of A "Significant Criminal--Armed and Dangerous"

An individual identified by the Bureau as unlawfully acquiring, possessing, transporting or otherwise using or dealing in firearms, explosives or destructive devices and currently and actively engaged in felonious criminal activity which presents a serious threat to the public safety.

(more)



They will ask these knowledgeable crime fighters to identify the worst of the criminals in their particular locality.

Once these criminals have been targeted, our local ATF agents will select the ones which represent the greatest threat to the community and then begin to develop cases against them, using the Federal laws which we enforce. These include the Gun Control Act of 1968 and the Explosives Act of 1970.

For the purpose of our program, we have defined a significant criminal as an individual identified by the Bureau as unlawfully acquiring, possessing, transporting or otherwise using or dealing in firearms, explosives or destructive devices and currently and actively engaged in felonious criminal activity which presents a serious threat to the public safety.

We are going to pursue criminals who have a history of violence -- felons who have been convicted for murder, kidnapping, rape, armed robbery, felonious assault, arson, and firearms and explosives violations.

In short, our agents are going after the worst of the criminal element.

(more)

The Bureau intends to target such vicious criminals as the contract killer, organized crime member, terrorist and the criminal who fences stolen firearms and explosives. This last category may be the worst of the lot for they are the people who acquire firearms and then funnel them to criminals who use them to murder, rob and assault our citizens.

Unfortunately, crime statistics seem to bear out the need for this program.

The Uniform Crime Reports show that from 1968 to 1973, crimes of violence -- murder, forceable rape, robbery and aggravated assault -- rose 47 per cent.

The use of guns in the commission of these crimes is on the increase. As an example, in 1973, there were nearly 20,000 murders, 67 per cent committed with firearms.

And another shocking statistic: In 1973, of the 127 law enforcement officers killed in the line of duty -- 120 were killed by firearms.

I am pleased to say that the program has the support of our compatriots in the Department of Justice. Attorney General William Saxbe recently announced that the Justice Department will increase its efforts against major criminals. Our efforts, closely coordinated with those of the United States Attorneys, will provide a two-pronged attack against major criminals.

(more)

With the initiation of our significant criminal program, we are going to step up the law enforcement offensive against crime. We are going after these extreme, anti-society troublemakers who arm themselves with guns and explosives to defy the law.

ATF has pledged to put to work all of its resources in bringing to justice these calloused criminals who often seem immune to the efforts of overworked local law enforcement agencies.

Now, I will be happy to answer any questions about this program...or the Bureau.

Department of the **TREASURY****NEWS****BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
Washington, D.C. 20226 202/961-7268Public Information Office  
May 28, 1975

FY-75-33

LOS ANGELES -- Special agents of the Bureau of Alcohol, Tobacco and Firearms have apprehended 366 of the nation's worst criminals since the inception of the Bureau's Significant Criminal Program six months ago, ATF Director Rex D. Davis announced here today.

Davis, here to speak before a national forum on firearms control sponsored by the United States Conference of Mayors, told a news conference that ATF agents throughout the nation, in cooperation with local law enforcement officers, have identified 1,064 criminals considered armed and dangerous during the first six months of the program.

The 366 which have thus far been arrested were apprehended in virtually every state and territory, Davis noted.

Prosecution has been recommended against 432 of these "armed and violent criminals" which Davis termed "the worst of the lot."

Davis said all of those identified in the ATF "Significant Criminal Program" are subjects of active investigations by ATF special agents.

ATF, which is part of the Treasury Department, regulates the firearms and explosives industries, and enforces federal laws against the illegal use of guns and explosives.

(more)

Davis, who appeared with actor Chuck Connors, said ATF has launched a national educational program "to emphasize the need for firearms security, both at home and by those who deal in firearms." Connors appears in a series of television and radio Public Service Announcements, which are intended to bring the message of firearms security to all citizens.

The ATF director stressed: "Our drive against significant criminals and the need for firearms security go hand-in-hand for we know that stolen guns used by criminals are difficult -- if not impossible to trace."

During the six months ATF's Significant Criminal Program has been operating, ATF agents working with law enforcement officers throughout the country, have sought to identify the most hardened, armed, dangerous criminals in every state and locality. Once identified, ATF agents then set out to perfect cases against these lawbreakers, using federal firearms and explosives laws which ATF enforces.

Of the 1,064 significant criminals identified, 366 had been apprehended as of May 15. Davis termed this "heartening progress against the anti-social element of our society."

The ATF national Firearms Security Program features a series of public service announcements being made available to television and radio stations across the nation.

Davis said his bureau believes "the threat of a stolen gun is so great that a warning bell should be sounded to the entire nation."

The Public Service Announcements ask citizens and firearms dealers to keep firearms under lock and key, to record serial numbers on guns and to report gun thefts to law enforcement officers.

One of the services provided by ATF is that of tracing guns seized in crimes. Last year the bureau traced more than 30,000 firearms, most for state and local authorities. The ability to trace firearms is often the only link between criminals and the crimes they commit.



Department of the **TREASURY**

**NEWS**

**BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
Washington, D.C. 20226 202/961-7268



STATEMENT BY  
REX D. DAVIS  
DIRECTOR

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

U.S. TREASURY DEPARTMENT

AT A NEWS CONFERENCE

PREPARED FOR RELEASE AT 11:30 A.M. (WDT)  
AT A NEWS CONFERENCE, HYATT REGENCY HOTEL,  
LOS ANGELES, CALIFORNIA.

MAY 28, 1975

BECAUSE I AM HERE IN LOS ANGELES ATTENDING THIS MOST IMPORTANT FORUM ON HANDGUN CONTROL SPONSORED BY THE UNITED STATES CONFERENCE OF MAYORS, I SHOULD LIKE TO TAKE THIS OPPORTUNITY TO ANNOUNCE THE INITIAL RESULTS OF A BUREAU DRIVE TO APPREHEND SIGNIFICANT, ARMED CRIMINALS. THIS PROGRAM IS BEING EMPHASIZED BY THE BUREAU IN ITS EFFORTS TO CONTROL THE GROWING TIDE OF CRIMINAL MISUSE OF FIREARMS, AND PARTICULARLY HANDGUNS.

AT THE SAME TIME, I WOULD LIKE TO BRING TO YOUR ATTENTION A NATIONAL EDUCATIONAL PROGRAM WHICH THE BUREAU HAS UNDERWAY. THIS PROGRAM EMPHASIZES THE NEED FOR FIREARMS SECURITY, BOTH AT HOME AND BY THOSE WHO DEAL IN FIREARMS. OUR DRIVE AGAINST SIGNIFICANT CRIMINALS AND THE NEED FOR FIREARMS SECURITY GO HAND-IN-HAND FOR WE KNOW THAT STOLEN GUNS USED BY CRIMINALS ARE DIFFICULT -- IF NOT IMPOSSIBLE, TO TRACE.

SIX MONTHS AGO WE INITIATED OUR SIGNIFICANT CRIMINAL PROGRAM -- ARMED AND DANGEROUS. THE PURPOSE OF THIS PROGRAM WAS TO JOIN WITH LAW ENFORCEMENT OFFICERS IN IDENTIFYING THE MOST HARDENED, ARMED AND VIOLENT CRIMINALS IN EVERY STATE AND LOCALITY. THESE ARE THE WORST OF THE LOT.

ONCE THOSE VIOLENT, ARMED CRIMINALS WERE IDENTIFIED, BUREAU SPECIAL AGENTS THEN SET OUT TO BUILD CASES AGAINST THEM USING FEDERAL FIREARMS AND EXPLOSIVES LAWS WHICH ATF ENFORCES.

I AM PLEASED TO REPORT THAT DURING THE FIRST SIX MONTHS OF THIS PROGRAM, WE IDENTIFIED 1,064 OF THESE CRIMINALS WHO ARE NOW THE SUBJECTS OF ACTIVE INVESTIGATIONS BY ATF AGENTS.

AS OF MAY 15, WE HAVE RECOMMENDED FOR PROSECUTION 432 OF THESE ARMED AND DANGEROUS CRIMINALS. WE ACTUALLY HAVE APPREHENDED 366 OF THESE SIGNIFICANT CRIMINALS, RIGHT HERE IN YOUR OWN STATE OF CALIFORNIA, THE BUREAU HAS UNDERWAY 74 ACTIVE INVESTIGATIONS, WITH 38 CASES RECOMMENDED FOR PROSECUTION, SEVENTEEN PERSONS ACTUALLY HAVE BEEN ARRESTED,

ALL OF THE CASES BROUGHT AGAINST THESE DANGEROUS CRIMINALS HAVE BEEN THROUGH CHARGES OF FIREARMS AND EXPLOSIVES VIOLATIONS.

OUR DRIVE AGAINST SIGNIFICANT CRIMINALS IS UNDERWAY IN EVERY STATE AND TERRITORY, AND WE HAVE MADE ARRESTS IN VIRTUALLY EVERY STATE. THIS REPRESENTS YOUR FEDERAL GOVERNMENT'S EFFORTS TO HELP SAFEGUARD LOCAL STREETS, WHILE WORKING WITH LOCAL OFFICERS.

THIS IS HEARTENING PROGRESS BY ATF AGAINST THE ANTI-SOCIAL ELEMENT OF OUR SOCIETY.

ONE OF THE MANDATES OF OUR BUREAU IS TO SERVE AS THE NATION'S HUB IN THE TRACING OF GUNS USED IN CRIME THROUGH THE ATF NATIONAL FIREARMS TRACING CENTER. ONE FACT REMAINS CLEAR, STOLEN GUNS ARE A FAVORITE TOOL OF THE CRIMINAL.

WE BELIEVE THE THREAT OF A STOLEN GUN IS SO GREAT THAT A WARNING BELL SHOULD BE SOUNDED TO THE ENTIRE NATION. TO DO THIS, WE ARE INAUGURATING OUR "FIREARMS SECURITY PROGRAM". THIS WARNING MESSAGE TO EVERY CITIZEN AND EVERY FIREARMS DEALER IS TO KEEP YOUR FIREARMS UNDER LOCK AND KEY, RECORD THE SERIAL NUMBER OF YOUR GUN, AND REPORT ANY THEFTS OR BURGLARIES OF FIREARMS TO THE LOCAL POLICE, OR TO THE NEAREST ATF OFFICE.

THE CATCHPHRASE IS: "YOUR STOLEN GUN THREATENS EVERYONE".

TO HELP US BRING THIS VITAL MESSAGE TO THE NATION, WE WERE FORTUNATE TO HAVE THE ASSISTANCE OF CHUCK CONNORS, THE WELL KNOWN ACTOR. MR CONNORS' APPEARANCE IN THESE PUBLIC SERVICE ANNOUNCEMENTS TO THE NEWS MEDIA NOT ONLY ENHANCE THE MESSAGE, BUT ALSO HIS STANDING AS A CITIZEN ACTIVELY SUPPORTING LAW ENFORCEMENT. THIS IS IMPORTANT SINCE THE FIGHT AGAINST CRIME WILL NOT BE SUCCESSFUL UNTIL EVERY CITIZEN TAKES A PART.

BECAUSE OF HIS WHOLEHEARTED COOPERATION, I AM HAPPY TO ANNOUNCE THAT I AM AWARDING MR. CONNORS' THE ATF DIRECTOR'S AWARD. THIS IS THE BUREAU'S HIGHEST SERVICE CITATION. TO ILLUSTRATE HOW ESTEEMED WE HOLD THE AWARD, IN THE THREE YEARS THAT ATF HAS BEEN A SEPARATE BUREAU OF THE TREASURY DEPARTMENT, THE AWARD HAS BEEN GIVEN ONLY 10 TIMES. THE CITATION IS PRESENTED FOR A VARIETY OF REASONS -- BUT PRIMARILY FOR GOVERNMENT AND PUBLIC SERVICE OF THE HIGHEST NATURE. MR. CONNORS IS ONLY THE SECOND NON-GOVERNMENT CITIZEN TO RECEIVE THE AWARD.

I SHOULD LIKE TO READ THE INSCRIPTION ON THE AWARD:

TO CHUCK CONNORS: WHO UNSELFISHLY GAVE OF HIS TIME AND TALENTS TO AID THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS IN ITS VITAL MISSION OF ENFORCING FEDERAL FIREARMS LAWS. MR. CONNORS APPEARED IN NATIONAL TELEVISION AND RADIO PUBLIC SERVICE ANNOUNCEMENTS SPONSORED BY THE BUREAU TO PROMOTE FIREARMS SECURITY. THE GOAL OF THIS ANTI-CRIME MESSAGE IS TO REDUCE THE NUMBER OF STOLEN GUNS, AND CONSEQUENTLY, THE NUMBER OF STOLEN GUNS USED IN CRIME. THUS, THIS PROGRAM IMPLEMENTS THE MOST VITAL LAW ENFORCEMENT MISSION OF THE BUREAU -- THAT OF KEEPING FIREARMS OUT OF THE HANDS OF CRIMINALS.



BY APPEARING IN THESE PUBLIC SERVICE ANNOUNCEMENTS WITH UNFAILING GRACIOUSNESS, MR. CONNORS HAS JOINED HANDS WITH ATF AND ALL LAW ENFORCEMENT OFFICERS IN THE WAR AGAINST CRIME AND THE NEVER ENDING BATTLE TO MAKE THE STREETS OF AMERICA SAFE FOR ALL CITIZENS,

BECAUSE OF HIS DEDICATION TO LAW AND ORDER, AND HIS SERVICE TO THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, U.S. TREASURY DEPARTMENT, THE DIRECTOR'S AWARD IS GIVEN TO MR. CONNORS IN WHOLEHEARTED APPRECIATION,



This picture shows the general methods by which criminals obtain firearms, and the ways in which the Bureau of Alcohol, Tobacco and Firearms interposes itself between the source and the criminal. There are seven main ways in which criminals obtain guns:

1. Falsification of firearms transaction records.
2. Illegal sales by licensed and unlicensed dealers.
3. Individual sales.
4. Illegal manufacture.
5. Smuggling.
6. Theft.
7. Unscrupulous dealers.

Each of the above general methods can involve several different specific procedures for obtaining firearms, and they are separately described below. Also described are the ATF methods, both ongoing and proposed, of combating each specific problem.

1. Falsification of firearms transaction records.

- a. Problem. The falsification of records can be accomplished by the criminal with or without the collusion of the licensed dealer. The convicted felon may state on Treasury Form 4473, Firearms Transaction Record, that he has never been convicted of a felony. An out-of-state purchaser may exhibit false identification to the licensee, claiming that he lives in the state in which he is buying the firearm. The dealer, conspiring with the criminal, can falsify his disposition records as to the identity of the purchaser of a particular firearm.
- b. ATF solutions. The Bureau has several ongoing programs designed to detect the falsification of records required to be kept by licensed dealers:
  - (1) Compliance inspection. ATF special agents and inspectors make spot checks of licensee records and inventories. In this manner, they can

detect possible record falsification by dealers and discrepancies in dealer inventory records.

- (2) Purchaser investigations. This procedure generally takes place during compliance inspections, but can be done at any time. The inspecting officer lists the names of firearms purchasers and checks their criminal records. He may contact individual purchasers to verify that they in fact purchased firearms listed as having been sold to them. Some dealers have been known to list several guns as sold to one purchaser, who actually bought only one firearm. The other listed guns were sold to criminals.
- (3) Gun tracing. The Bureau maintains the National Firearms Tracing Center, which traces about 32,000 guns annually for any law enforcement agency desiring a trace. This procedure can reveal recordkeeping violations, as well as assist law enforcement officers in the performance of their duties.

## 2. Illegal sales.

### a. Problems.

- (1) Sales by unlicensed dealers. These are sales made by persons who obtain, either legally or illegally, large numbers of firearms, and engage in business as firearms dealers without obtaining licenses and without keeping transaction records. Generally, they do not obtain identification from the purchaser of a firearm.
- (2) Off-site sales by licensees. A license issued to a dealer is valid only when he does business at his place of business. Usually, when a dealer deals at places other than his business premises, he does so with firearms that he has not recorded in his acquisition records. He then does not record the sale. This method, as well as the above, makes the tracing of a particular firearm almost impossible.

- b. ATF solutions. The following are ongoing programs to suppress the types of sale described above:

- (1) Report of multiple sale of handguns.  
~~This is a new program, which will begin in the next few months. Licensees will report to ATF any sale of two or more handguns to one person at one time or within five business days.~~ In this manner, ATF will have the information needed to investigate those persons who are buying handguns for resale as an unlicensed dealer. Before this, ATF special agents had to learn about unlicensed dealers through normal methods of investigation.
- (2) Criminal investigations, including undercover operations. As with all crimes under ATF jurisdiction, our special agents utilize a number of methods to detect the crime and apprehend the criminal. These include the use of confidential informers, surveillance of suspects, and to a large extent, undercover operations. ATF special agents are encouraged to infiltrate criminal operations and to gain the confidence of violators. This enables our special agents to purchase guns from suspected unlicensed dealers and from dealers who sell guns away from their licensed premises. Every special agent can work undercover, but we have recently begun specialized undercover training for selected special agents. This will enhance our ability to infiltrate sophisticated operations.

### 3. Individual sales.

- a. Problem. Criminals obtain some of their guns by purchasing them from individuals. ~~The seller is not required to obtain identification from the purchaser, nor does the purchaser have to certify that he is not a prohibited person.~~ This type of sale is legal in many cases. If the private individual sells across state lines, he is in violation, but in practice, is rarely detected or prosecuted. If the private seller is engaged in business without a license, he of course is prosecutable as an unlicensed dealer.



- b. ATF solutions. Existing law provides no effective control of this problem. Private sales rarely come to light, and often, the lack of required records makes a trace of the firearm impossible.

#### 4. Illegal manufacture.

- a. Problems. There are various types of firearms manufactured illegally. ~~Firearms can be newly assembled from parts manufactured for the illegal market, or from parts stolen from manufacturers.~~ They can also be made by converting something not intended as a firearm into a firearm, such as items commonly known as pen guns, designed ostensibly as gas guns for defensive purposes. Other pen guns are manufactured with the specific purpose of being used as firearms.

- b. ATF solutions.

- (1) The Bureau has recently ruled that all items commonly known as "pen guns" are firearms within the purview of Chapter 44, Title 18, United States Code, and must be manufactured and sold in compliance with all regulations governing manufacture and sale of firearms. This ruling also makes the purchase subject to all provisions of the Gun Control Act.
- (2) As with any violation, ATF special agents combat the illegal manufacturing of firearms through the normal methods of criminal investigation, including undercover activities.

#### 5. Smuggling.

- a. Problems. Although smuggling is primarily a crime within the purview of the Customs Laws of the United States, the Bureau of ATF, because of its jurisdiction under the Gun Control Act, ~~has a large stake in eliminating the flow of foreign made firearms into this country.~~ It is impossible to estimate the number of firearms smuggled into the United States annually by professional and amateur smugglers. Most such weapons have been brought back in recent years from combat zones by returning servicemen.

- b. ATF solutions. The Bureau cooperates with the Customs Service in a free interchange of information, and handles primarily the domestic aspects of the smuggling problem, by normal criminal investigative techniques. We frequently uncover firearms which were illegally brought into the United States, and jointly work with the Customs Service in attempting to bring such activities to a halt.

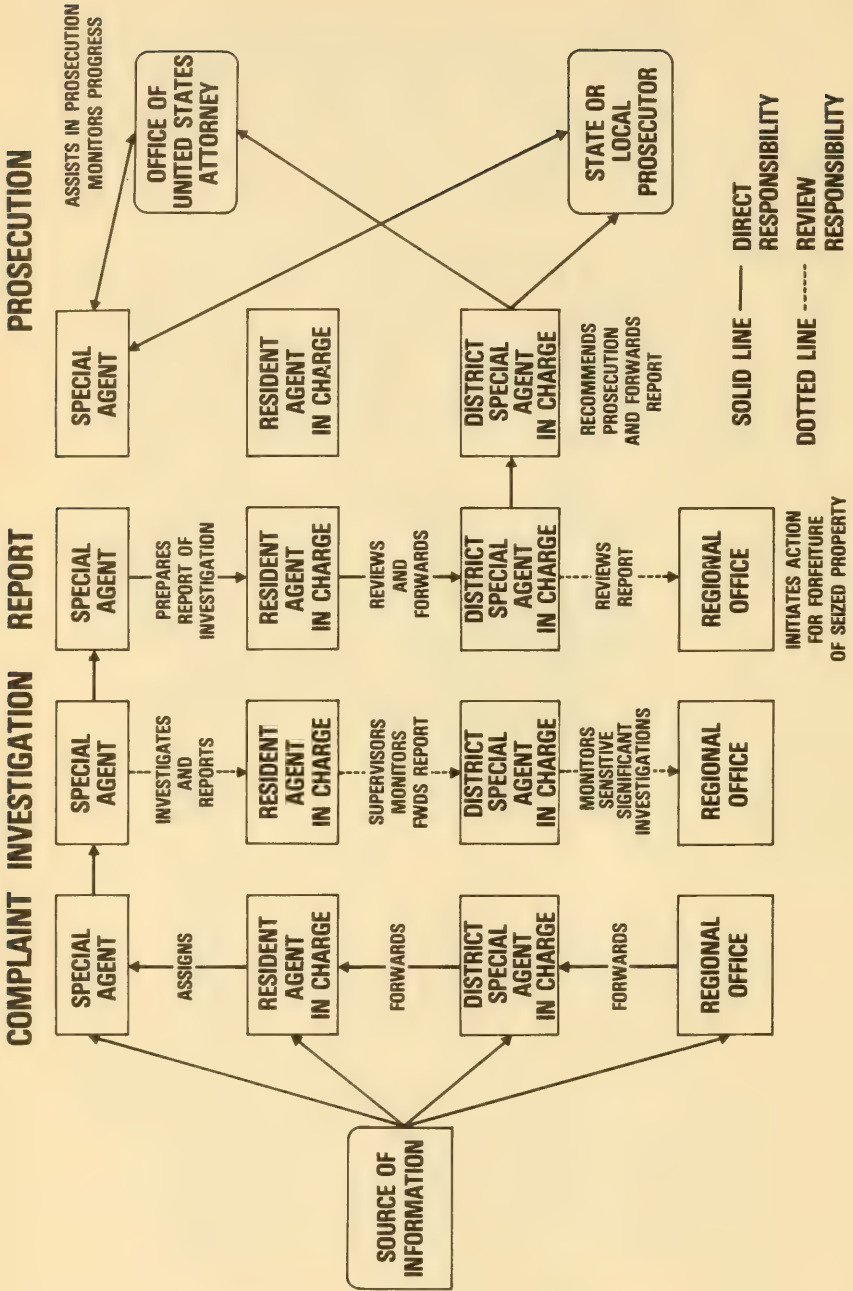
## 6. Theft.

- a. Problems. Guns are stolen from almost every possible source; interstate carriers, manufacturers, dealers and individuals. ~~The Bureau estimates that more than 100,000 handguns alone are stolen yearly from the public, while about 6,000 firearms are stolen from interstate shipments every year.~~ These firearms, when used in a crime, are impossible to trace to the person(s) who used them for criminal purposes.
- b. ATF solutions. We are attempting to cope with this problem in several ways:
  - (1) The Interstate Firearms Theft Program, implemented in 1973, asks that manufacturers and common carriers ~~report~~ to ATF all thefts and losses of firearms from interstate shipments. To date, we have received about 1,260 loss or theft reports involving 10,000 firearms. Working alone and with other agencies, our special agents have recovered about 1,000 firearms and have arrested forty-four persons.
  - (2) Public Education Program. The Bureau informs industry and the public of the firearms theft problem in various ways. We distribute posters to common carriers and licensees and stress the problem in public appearances by our special agents and in television spots.
  - (3) Criminal Investigations. When ATF is advised of a theft from an interstate shipment, special agents immediately investigate or assist other agencies with their investigations, if possible. As always, all normal methods of investigation are used.

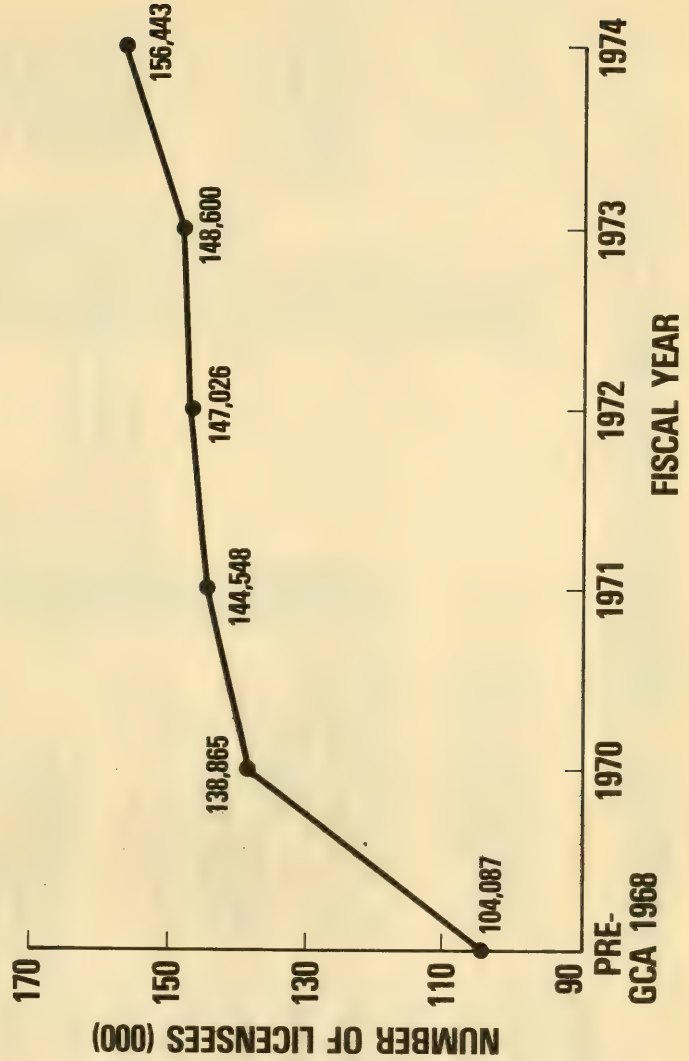
- (4) Proposed Dealer Theft Program. We are just finishing a survey of licensed dealers to attempt to measure the extent of thefts from licensed dealers. If warranted, we may institute a program similar to the Interstate Theft Program.

7. Unscrupulous Dealers.

- a. Problems. This source of firearms is closely connected with Items 1 and 2 of this paper. The dealer who is allied with the criminal can provide him with guns in many ways, from falsifying records to selling guns on dark country roads.
- b. ATF solutions.
- (1) Ongoing. Our effort centers on the normal procedures of compliance inspections, undercover investigations and gun tracing.
- (2) Proposed. This problem could possibly be alleviated by a reduction in the number of licensed dealers. Study is being made of possible higher license fees and stricter qualifications for prospective licensees.

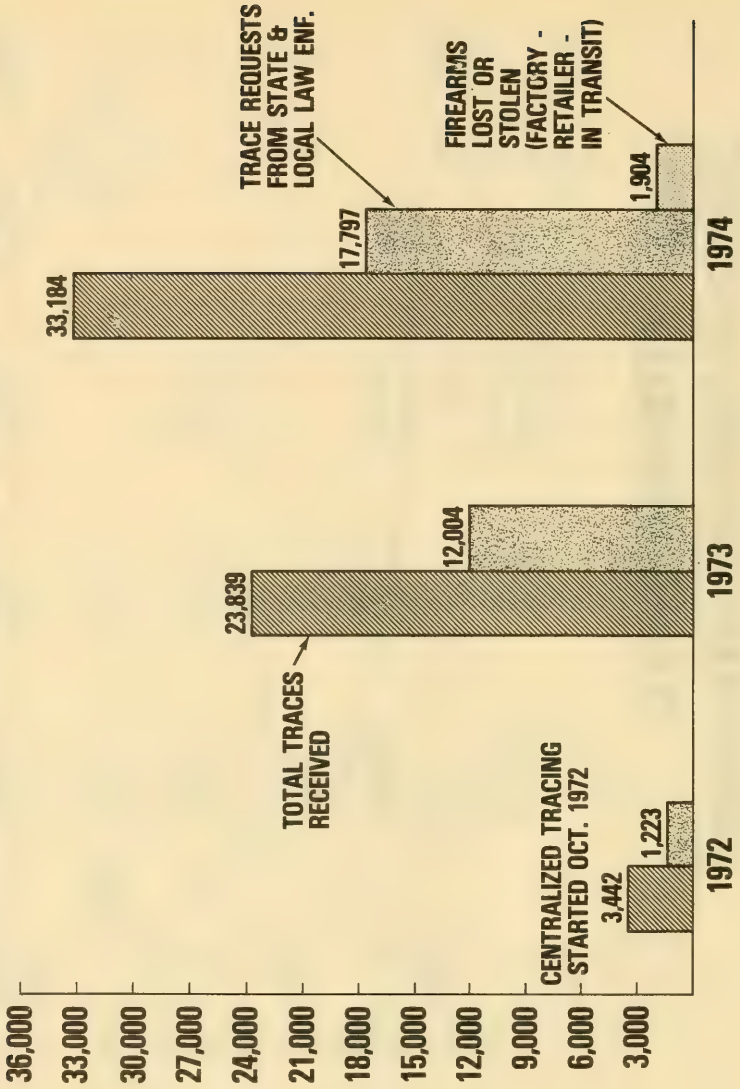


# NUMBER OF FIREARMS LICENSES ISSUED ANNUALLY





# NATIONAL FIREARMS TRACING CENTER



# ***FIREARMS TRACING SUPPORT TO SPECIAL AGENTS***

	<b><u>NUMBER OF YES RESPONSES</u></b>	<b><u>% OF YES RESPONSES</u></b>
--	---	--------------------------------------

**DID TRACE ASSIST  
IN IDENTIFYING  
THE VIOLATOR?**

**55**

**27.5**

**469**

**DID TRACE ASSIST  
IN THE INVESTIGATION?**

**147**

**73.5**

**DID TRACE ASSIST  
IN MAKING A CASE?**

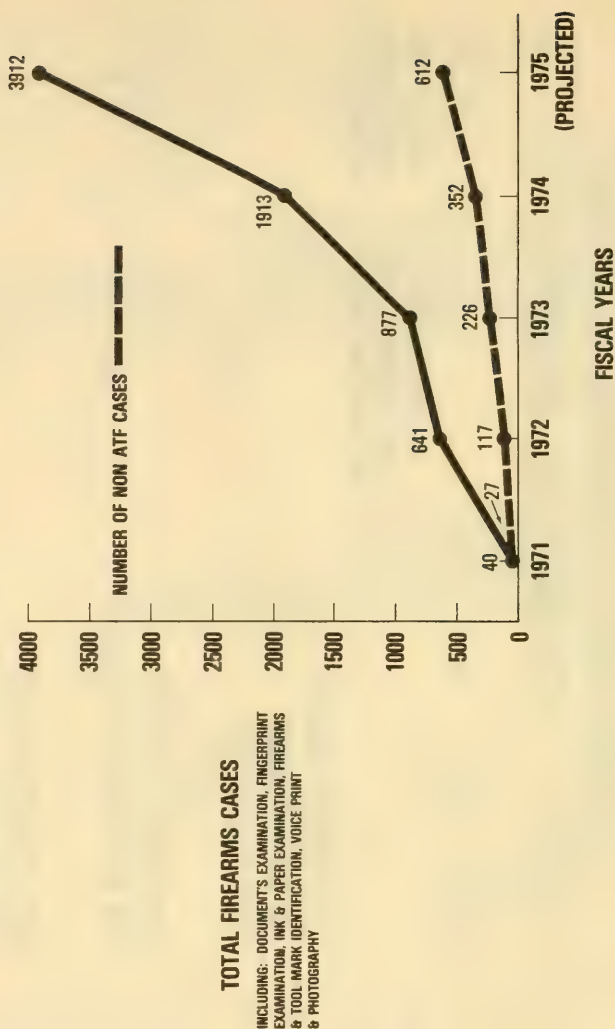
**84**

**42.0**

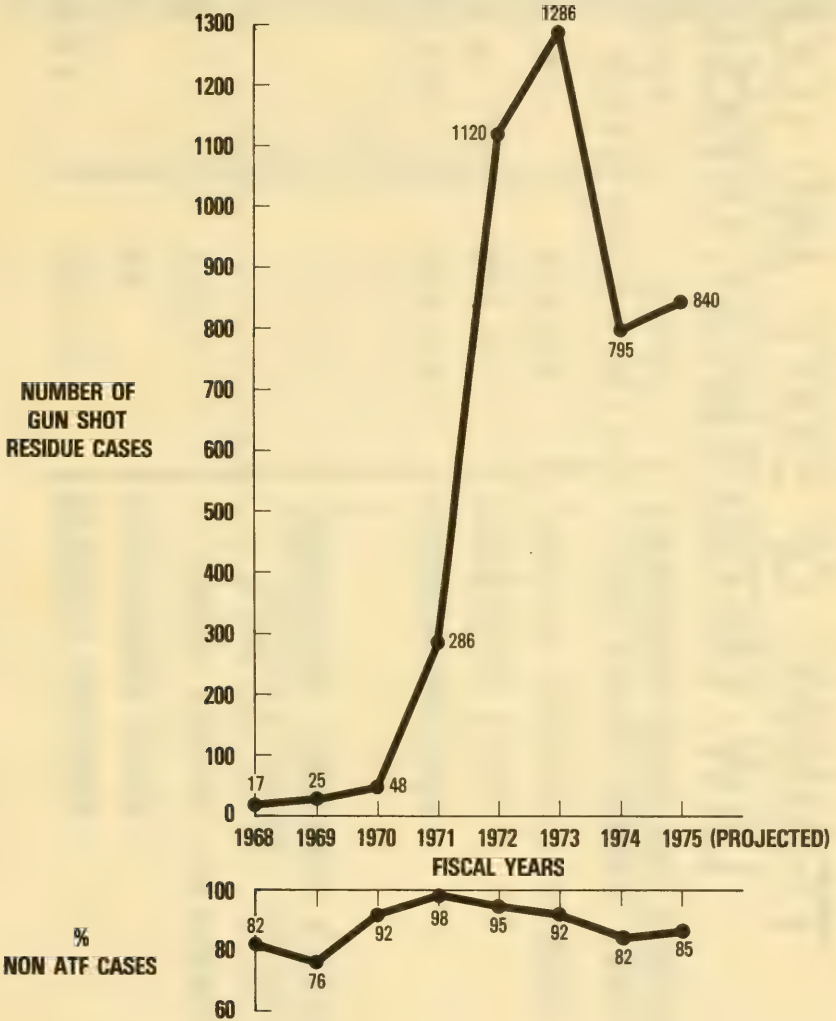
**FROM RANDOM SAMPLING OF 200 TRACES  
REQUESTED DURING OCTOBER 1974**

# IDENTIFICATION LABORATORY ATF HEADQUARTERS

470



# FORENSIC LABORATORY ATF HEADQUARTERS



# TRAINING OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS

## REGIONAL TRAINING PROGRAMS (BRIEF SEMINAR - LECTURE TYPE)

NUMBER OF: OFFICERS TRAINED

DEPT'S REPRESENTED

PARTICIPANT MANHOURS

	FY-74 (7-1-73 • 6-30-74)	FY-75 (7-1-74 • 1-31-75)
NUMBER OF: OFFICERS TRAINED	32,671	24,090
DEPT'S REPRESENTED	5,306	3,213
PARTICIPANT MANHOURS	139,441	93,760

## HDQTR'S TRAINING PROGRAMS (40-80 HOUR CLASSES)

NUMBER OF: OFFICERS TRAINED

DEPT'S REPRESENTED

PARTICIPANT MANHOURS

NUMBER OF: OFFICERS TRAINED	482	539
DEPT'S REPRESENTED	52	61
PARTICIPANT MANHOURS	21,700	22,866



Department of the **TREASURY**

**NEWS**

**BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
Washington, D.C. 20226

202/961-7268



Public Affairs Office

ATF Study Shows Handguns Obtained  
Through Theft and Deception.

FY-75-55

Advance for use at 10:00 a.m. EST, Wed., April 14, 1976

WASHINGTON -- A six-month pilot study of a special group of crime associated handguns traced throughout their life history by the Bureau of Alcohol, Tobacco and Firearms indicates a far greater number in this category was stolen or obtained by false and devious means than previous studies showed.

ATF Director Rex D. Davis reported today that the study of 300 handguns picked from those submitted by various police agencies to the Bureau's National Firearms Tracing Center for investigational tracing showed that 66, or 22%, were stolen, although most of them never were reported stolen.

The 300 were selected at random from a subgrouping of handguns manufactured after Jan. 1, 1972, which had moved interstate, and which previously had been traced to their first retail seller.

Project 300 was the first study of its kind ever attempted. To accomplish it, ATF agents in all 50 states went into the field over a six-month period to painstakingly track down each owner of a firearm in the sample and then each previous owner until the complete life history of each gun was compiled.

Of the 300 handguns, all submitted to the Bureau for investigational tracing, 197 were determined to have actually been involved in a crime. Davis said this indicates that two-thirds of the traceable handguns submitted to the Bureau are crime handguns.

Of the 300 sample, 66 or 22%, were stolen guns. Davis noted that this bears out the Bureau's contention that one of the criminal's favorite tools is a stolen gun.

Project Identification, another recent, but less in-depth ATF study of handguns submitted to the Bureau for tracing by police departments in 16 selected cities, showed 6% of the sample of 10,617 handguns was reported stolen and recorded in the National Crime Information Center (NCIC). If a handgun had been identified previously as stolen and recorded on the NCIC, it was not included in the Project 300 sample.

Thus, Davis said, the revelation that 66 of the 300 were stolen, and that 52 of these were not reported to the police, indicates an incidence of the use of stolen guns in crime of alarming proportions.

The theft record of the 300 sample included 10 which the first retail dealers said were stolen from them. Forty-three were stolen from the 256 first retail owners; 7 from the 127 secondary owners, and 6 from 74 last owners.

Where Project I tracing ended with the first retail sale, Project 300 picked up at that point and where possible carried the trace throughout its life history.

Davis said the exhaustive Project 300 study was performed so that the Bureau could determine through a statistical sample how handguns entered criminal channels and their life history up to seizure or association with a crime. The Bureau's goal is to determine how criminals get their guns, Davis said, and then attempt to cut off these sources.

Davis said broad general findings of the 300 sample showed:

-- a disturbing number of handguns submitted for tracing had been stolen, and most of these stolen guns went unreported to police.

-- that there is a relationship, either through friendship or family, among those who passed the guns along their chain before an actual crime associated seizure.

-- that many of the first purchasers circumvented the Gun Control Law by using guile or deception to obtain their guns from legitimate federally licensed firearms dealers.

-- that a significant number of these 300 guns was associated with narcotics crimes.

-- that through the entire tracing procedure involving 256 handguns, 40 felons were found in the possession of one of the guns. Felons are forbidden by law to own or possess a firearm.

Davis said the large number of stolen guns in the sample supports the validity of the Bureau's National Firearms Security Program. This public information program, started last year, stresses the use of radio and television public service announcements as well as other media to bring the message of firearms security to the public.

The criteria for selection of a handgun for the sample in Project 300 was that it be manufactured after Jan. 1, 1972, when the ATF Tracing center began operation; that it was not recorded previously as stolen in the National Crime Information Center (NCIC); that it had been moved interstate; and that the gun had been traced previously to the first retail dealer.

During a nine-month period from October 1974 through June 1975, the Bureau's tracing center received from various sources 17,575 handguns for tracing. From this group, 11,810 were traced successfully, that is, they were traced to their first retail sale, at which point there are no further records kept on firearms.

It was determined that of the 11,810 handguns, 5,725 had moved interstate. It was from this group that the 300 sample was selected randomly by computer.

Eventually, the 300 was reduced to 256 because of the inability for various reasons to trace 44 guns beyond their arrival at the first retail dealer. Dealers reported 10 of these guns had been stolen.



Highlights of the 300-gun sample showed:

-- that 66 (22%) were stolen.

-- that 52 (79%) of the stolen guns were not reported stolen.

Of the 256 guns traced to the first retail owner:

-- 40 (16%) were obtained by persons who used fictitious or invalid identification.

Under the Gun Control Act of 1968, which is enforced by ATF, records must be kept through the first retail sale on all guns entering commerce. The guns must pass through a federally licensed firearms dealer and the purchaser must complete and sign an ATF Form 4473. This firearms transaction form requires the purchaser to swear he or she is at least 21 years old, a resident of the state in which the gun is being bought, and that the purchaser is not a convicted felon, nor have a history of mental disorder, or alcohol or narcotics addiction.

The more than 158,000 gun dealers in the United States are required to request some identification from each buyer, but it is not incumbent on the dealer to ascertain the purchaser is who he claims to be.

The study showed that of the 256 first retail purchasers, 40 or 16%, used a fictitious or invalid identification to obtain a gun. Twenty-three used a Social Security card as identification, of which 8 were fictitious. Davis noted that because of a 1975 Bureau ruling, Social Security cards are no longer acceptable as identification.

Fifty, or 20% of the first retail purchasers, used or had possession of the gun in the commission of a crime.

The Bureau recently released the results of its Project Identification study during which crime handguns submitted from police departments in 16 selected cities were traced to the first retail sale. While some Project I guns were included in the 300, the sample was selected from the entire number of guns submitted to the bureau for tracing from all sources.

While the number of stolen guns in Project 300 was considerably higher than the 6% in Project I, the number of so-called Saturday Night Specials was about the same. The 300 sample turned out to have 88, or 29%, Saturday Night Specials, while 30% of Project I guns was Saturday Night Specials.

Davis noted that 197 of the 300 sample guns were used or seized in street crimes. Of the 256 which were traceable from the first retail sale, 127 were traced to a second sale, and then 74 were traced to a third sale. Only 13 were traced to more than three sales.

Davis said that not only did 65 of the first 256 retail purchasers have felony or criminal records, but that 53 of the 127 second owners were either a relative or friend of the first purchaser.

Of the 127 second owners, 21 were felons or had a criminal arrest record. Of the 74 guns traced to a third owner, 36 were felons or had a criminal arrest record.

Fifty of the 256 first retail purchasers were arrested with trace firearms in their possession. Of the 50 arrested, nine (18%) were felons and 14 (28%) used invalid identification to make firearms purchases.

Of 127 guns transferred from the first owner to a second owner, felons acquired nine (7%) of these guns, and 12 others (10%) went to persons with criminal records.

Thirty of the second owners were arrested with trace firearms in their possession. Half of these were felons or had a police record.

Seventy-four guns were tracked to a third or final owner. Almost half of these guns turned up in the hands of felons or persons with arrest records.

Fifty-four of 74 final owners were arrested with trace firearms in their possession. Of this number, 22 (41%) were felons, and 13 others (24%) had previous brushes with the law.

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**Department of the TREASURY**

**NEWS**

**BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
Washington, D.C. 20226 202/961-7268



Public Affairs Office

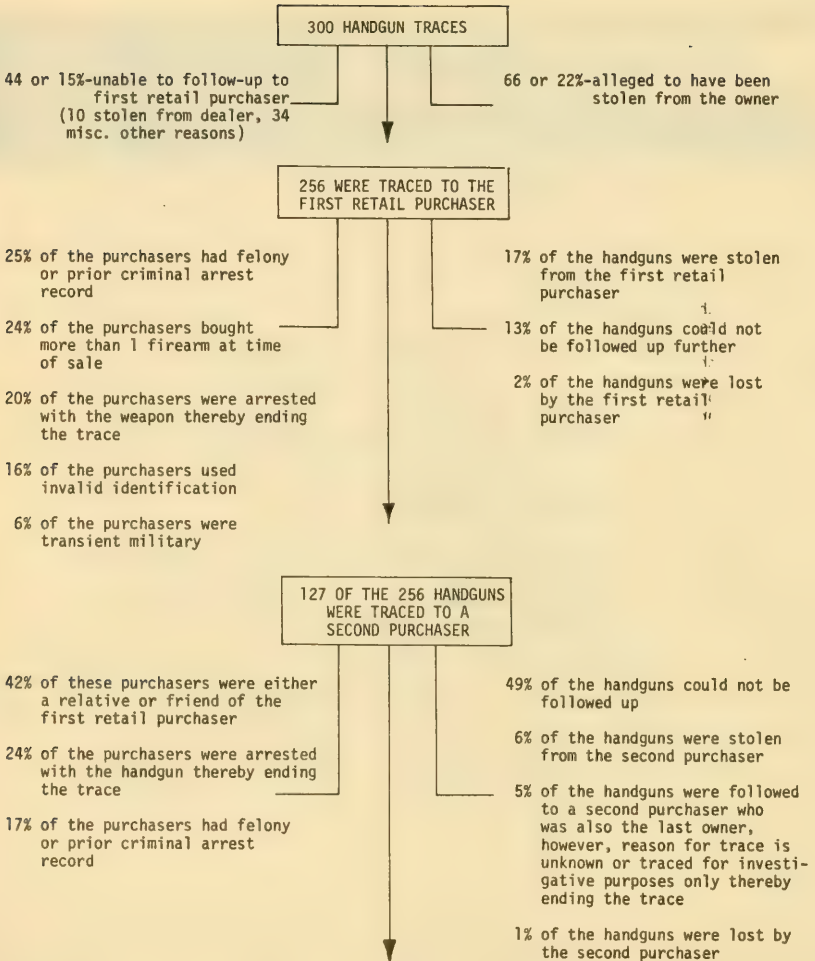
April 12, 1976  
FY-76-56

PROJECT 300 STUDY

ATF FIREARMS TRACE TRACKING CHART

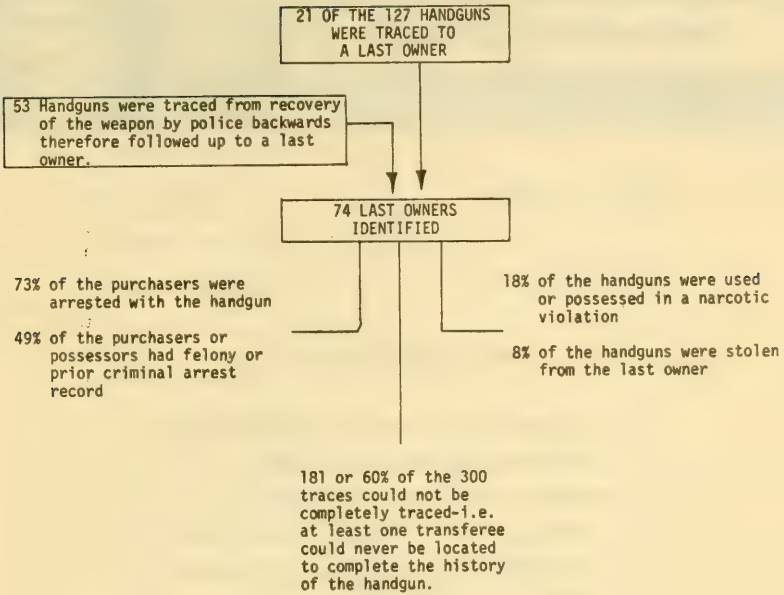
Chart traces flow of 300 handguns from first retail dealer...to first purchaser...to second owner (or transferee)...to final owner.

300 handgun traces selected at random from a total of 11,810 firearms traced by ATF to first retail dealer, from October 1974 through June 1975.



(continued)





(end)

Department of the **TREASURY**

**NEWS**

**BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
Washington, D.C. 20226 202/961-7268



Public Affairs Office

April 12, 1976  
FY-76-57

PROJECT 300 STUDY STATISTICS

--An in-depth study of 300 handguns traced by the Bureau of Alcohol, Tobacco and Firearms.

--Purpose: Determine how handguns enter criminal channels, and the life history of handguns from the time they are manufactured until their seizure or association with crime.

--Method: Trace handguns from first retail sale to last known owner.

## PROJECT 300 STUDY

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SIGNIFICANT FINDINGS

The follow-up trace study has revealed a number of significant findings with respect to the transfer of a firearm from its first retail purchaser to its trace or recovery by law enforcement officials.

## 300 FIREARMS TRACED

66 or 22% of the firearms were allegedly stolen.

52 or 79% of these stolen firearms were never reported to the police.

Of the 43 persons who were arrested with stolen firearms, 35 or 81% had a felony conviction or criminal arrest record (i.e. the criminal records of 19 persons were unknown or the thief could not be identified; four firearms have not been recovered).

88 or 29% of the firearms were "Saturday Night Specials".

47 or 16% of the firearms were involved in narcotics offenses.

197 or 66% of the firearms were used or seized incident to a street crime.

181 or 60% of the 300 firearms could not be completely traced, i.e. at least one transferee could never be located to complete the historical life of the firearm.

The average time involved between the first retail sale of a firearm and its trace or recovery was 13 months, (i.e. this average was based on 193 of the available dates in which a firearm was involved in a crime).

#### First Retail Purchaser

The study has shown that 25% of the 256 first retail purchasers had either a felony conviction or criminal arrest record.

16% of the 256 first retail purchasers used a fictitious or invalid identification.

23 or 9% of the 256 purchases were accomplished by use of a Social Security card as identification - 35% of which were fictitious.

24% of the 256 first retail purchasers bought more than one firearm at the time of purchase.

6% of the 256 first retail purchasers were transient military personnel.

20% of the 256 first retail purchasers used or possessed the trace firearm while involved in a crime.



Secondary Transferee

127 of the 256 weapons were sold to a second transferee.

42% of the 127 second transferees were either a relative or friend of the first purchaser.

17% of the 127 second purchasers had a felony conviction or other criminal arrest record.

24% of the 127 second transferees used or possessed the weapon in a crime and were arrested.

Last Owner

74 firearms were traced to a third person (last owner).

49% of the last owners had a felony conviction or criminal arrest record.

73% of the 74 last owners used or possessed the firearm in a crime and were arrested.

13 firearm traces were identified as having been transferred to more than three persons after the first retail sale.

Saturday Night Specials - Lost and Stolen Guns  
Narcotic Involvement

TOTAL FIREARMS SUBMITTED FOR TRACING STUDY - 300

Total number of "Saturday Night Specials"	88	(29%)
Total firearms which follow-up investigation revealed to be stolen	66	(22%)
Total firearms stolen from retail dealers	(10)	
Total firearms found to be stolen but not reported	(52)	(79%) (1)
Total firearms shown to be lost by legal owner	5	(2%)
Total firearms lost but not reported	( 4 )	
Total firearms seized incident to an arrest of an individual involved in narcotics (i.e. narcotics arrest of dealer or possessor)	47	(16%)

(1) 79% of 66 stolen guns.

## TOTAL FIRST RETAIL PURCHASERS (FRP)-256

	(DATA BASE 256)	
FRP's purchasing more than one firearm	61	(24%)
FRP's purchasing more than one firearm who were convicted felons	(5)	
FRP's that could not be contacted or were still in possession of firearm	44	(17%)
FRP's from which firearm was stolen	43	(17%)
Total FRP's identified as convicted felons at time of purchase	(16)	(6%)
Total FRP's identified as having a criminal arrest record at time of purchase	<u>(49)</u>	<u>(19%)</u>
TOTAL	(65)	(25%)
Total FRP's who produced invalid identifi- cation at time of purchase	40	(16%)
Apparent reasons for producing fictitious identification		
1. Lived outside of State of purchase	(16)	
2. Total FRP's who were convicted felons	(7)	
Total FRP's identified as in military at time of purchase	16	(6%)

## OVERALL TYPES OF RETAIL DEALERS WHICH COULD BE IDENTIFIED

(DATA BASE 300)

<u>Retail Store</u>	<u>Sporting Goods</u>	<u>Retail Gun Store</u>	<u>Pawn Shop</u>
104	60	64	40

## TYPES OF RESIDENCE - (FRP) (WHERE DETERMINED)

<u>Houses</u>	<u>Apartments</u>	<u>Mobile Trailers</u>
161	54	11
<u>Hotel/Motels</u>	<u>Barracks</u>	<u>Other</u>
3	7	5

## SEX - (FRP) (WHERE DETERMINED)

<u>Male</u>	<u>Female</u>
229	32

## RACE - (FRP) (WHERE DETERMINED)

<u>Caucasian</u>	<u>Negro</u>	<u>Latin</u>	<u>Indian</u>
193	61	4	3

## RESIDENCES - (WHERE DETERMINED)

<u>Permanent</u>	<u>Temporary</u>
166	60

## AGE - (WHERE DETERMINED)

The average age of the first retail purchaser in this study was 37 years old.



## (FRP) ARREST INFORMATION

(DATA BASE 50)

Total FRP's arrested with trace firearms	50	
FRP's arrested with firearm who had criminal arrest record	11	(22%)
FRP's arrested with firearm who had prior felony conviction	9	(18%)
FRP's arrested who produced invalid identification at time of purchase	14	(28%)

## Apparent reasons for producing fictitious identification

1. FRP's who were also convicted felons (3)
2. Lived outside of State of purchase (8)

Total FRP's arrested with trace firearms and involved in narcotics	15	(30%)
FRP's in military at time of purchase and arrested with trace firearm	3	(6%)

## TYPES OF DEALERS FROM WHICH ARRESTED FRP'S BOUGHT FIREARM

<u>Retail Store</u>	<u>Sporting Goods</u>	<u>Retail Gunshop</u>	<u>Pawn Shop</u>
15	14	10	11

## SECOND TRANSFEREE (ST)

(DATA BASE 127)

Total ST's identified	127	
Total ST's with criminal arrest record	12	(10%)
Total ST's with felony conviction	9	( 7%)
Total ST's with narcotic involvement	8	( 6%)
Total ST's arrested with trace firearm	30	(24%)
Total transfers in which ST was relative or living with FRP	(16)	(13%)
Total transfers in which ST was friend of FRP	<u>(37)</u>	<u>(29%)</u>
TOTAL	(53)	(42%)
Total transfers to ST under 21 years of age	4	( 3%)
Total transfers in which ST was last owner and reason for trace unknown	6	( 5%)
Total firearms stolen from ST's	7	( 6%)
Total traces in which trace could not be followed through ST	62	(49%)

## (ST) ARREST INFORMATION

ST's arrested with trace firearm	30	
		(DATA BASE 30)
ST's arrested with firearm who had criminal arrest record	8	(27%)
ST's arrested who had prior felony conviction	7	(23%)
ST's arrested with firearms having narcotics involvement	4	(13%)
ST's arrested who obtained firearm from FRP who was a relative or was living with FRP	(11)	(37%)
ST's arrested with firearm who was also friend of FRP	<u>(14)</u>	<u>(47%)</u>
TOTAL	(25)	(84%)

## LAST OWNER (LO)

Total number of last owners	74	
	(DATA BASE 74)	
Total LO's with criminal arrest record	(14)	(19%)
Total LO's with felony conviction	<u>(22)</u>	<u>(30%)</u>
TOTAL	(36)	(49%)
Total LO's with narcotics involvement	13	(18%)
Total firearms stolen from LO's	6	( 8%)
Total LO's arrested	54	(73%)
	(DATA BASE 256)	
Total number of traces involving more than three transfers	13	( 5%)

Due to the large number of ST's and LO's that could not be located, information on the transfer of the firearm from friends and relatives could not be accurately obtained.

## (LO) ARREST INFORMATION

(DATA BASE 54)

Total number of LO's arrested with trace firearm	54	
LO's arrested who had a criminal arrest record	(13)	(24%)
LO's arrested who had a prior felony conviction	(22)	(41%)
LO's arrested who were involved in narcotics	11	(20%)



INVALID IDENTIFICATION

The trace study has determined that of the 256 firearms traced to a first retail purchaser, 40 persons or 16% used fictitious identification with which to purchase a firearm. Sixteen persons lived in a State other than the State of purchase. The remainder of the persons using invalid identification gave fictitious names or addresses. In a large number of traces we were unable to determine the legal State of residence. All the firearms were either traced or recovered in a State different than that of the first purchase.

An ATF ruling now exists which precludes a retail dealer from accepting a Social Security card as the only means of identification obtained from a purchaser of a firearm. The study has shown that 23 persons used a Social Security card as their only means of identification. Of the 23 persons, eight provided fictitious or invalid information on the firearm transaction record.

Eight or (21%) of the 38 purchases originating in the State of Florida were found to have been made with invalid identification.

Of the total number of 40 traces which revealed an individual using fictitious identification, Florida accounted for 20%.

(Four traces were omitted because it was the same purchaser on the same date buying additional firearms).

The State of Texas had six traces in which a purchaser used false identification. This was 15% of the 40 traces.

The State of South Carolina had four traces in which a purchaser used false identification. This was 10% of the 40 traces.

These three States comprised 45% of the 40 traces in which invalid identification was used.

Of the 40 purchases in which invalid identification was used, 10 or (25%) of the firearms were recovered or traced in New York.

RETAIL DEALERS

The trace study revealed that of the 300 firearms submitted, nine traces involved the arrest or violation of the Gun Control Act by a retail dealer.

One investigation in Florida involved a retail dealer filling out the U.S. Treasury Form 4473 with himself as the first purchaser. He would then transfer the firearm to out of State residents. A total of 40 illegal transfers were uncovered. The Gun Shop, its officers and employees were successfully prosecuted.

In South Carolina, a retail dealer was arrested for providing State driver's license numbers to out of State purchasers who used the information to falsify the U.S. Treasury Forms 4473. A total of five illegal transfers were uncovered. This retail dealer was subsequently convicted and is out of the firearms business.

MILITARY IDENTIFICATION

The trace study has shown that of the 300 traces, 16 were first purchased by persons in the military. Seven firearms were transported across State lines by the military first retail purchaser. Two firearms were transferred to other military personnel who then took the firearm across State lines.

Five military personnel were arrested with the firearm while in the commission of a crime including one for murder and another for attempted murder.

STATES IN WHICH FIREARMS WERE PURCHASED

ALASKA	1
ALABAMA	6
ARKANSAS	3
ARIZONA	4
CALIFORNIA	13
COLORADO	3
CONNECTICUT	5
DISTRICT OF COLUMBIA	0
DELAWARE	0
FLORIDA	38
GEORGIA	14
HAWAII	0
IDAHO	2
ILLINOIS	21
INDIANA	4
IOWA	0
KANSAS	3
KENTUCKY	4
LOUISIANA	6
MAINE	2



MARYLAND	3
MASSACHUSETTS	4
MICHIGAN	1
MINNESOTA	4
MISSISSIPPI	11
MISSOURI	3
MONTANA	2
NEBRASKA	2
NEVADA	0
NEW HAMPSHIRE	4
NEW JERSEY	1
NEW MEXICO	4
NEW YORK	9 (8 from one dealer investigation)
NORTH CAROLINA	8
NORTH DAKOTA	0
OHIO	15
OKLAHOMA	10
OREGON	5
PENNSYLVANIA	4
PUERTO RICO	0
RHODE ISLAND	0

SOUTH CAROLINA	13
SOUTH DAKOTA	0
TENNESSEE	6
TEXAS	26
UTAH	1
VIRGINIA	20
VERMONT	0
WASHINGTON	0
WISCONSIN	3
WEST VIRGINIA	7
WYOMING	2
MEXICO	0
FOREIGN COUNTRY	1

NOTE: Two of these firearms were purchased on U.S. military installations in foreign countries.

STATES IN WHICH FIREARMS WERE TRACED OR RECOVERED

ALASKA	1
ALABAMA	7
ARKANSAS	2
ARIZONA	3
CALIFORNIA	12
COLORADO	0
CONNECTICUT	3
DISTRICT OF COLUMBIA	6
DELAWARE	1
FLORIDA	10
GEORGIA	7
HAWAII	0
IDAHO	1
ILLINOIS	3
INDIANA	7
IOWA	0
KANSAS	1
KENTUCKY	3
LOUISIANA	6
MAINE	0

MARYLAND	6
MASSACHUSETTS	12
MICHIGAN	4
MINNESOTA	4
MISSISSIPPI	3
MISSOURI	23
MONTANA	0
NEBRASKA	2
NEVADA	0
NEW HAMPSHIRE	0
NEW JERSEY	16
NEW MEXICO	1
NEW YORK	52
NORTH CAROLINA	8
NORTH DAKOTA	0
OHIO	7
OKLAHOMA	2
OREGON	1
PENNSYLVANIA	14
PUERTO RICO	0
RHODE ISLAND	1

SOUTH CAROLINA	6	
SOUTH DAKOTA	3	
TENNESSEE	9	
TEXAS	21	(8 from one dealer investigation)
UTAH	0	
VIRGINIA	4	
VERMONT	2	
WASHINGTON	8	
WISCONSIN	4	
WEST VIRGINIA	3	
WYOMING	1	
MEXICO	3	
FOREIGN COUNTRY	7	



STATE IN WHICH FALSE  
IDENTIFICATION WAS USED

ALABAMA

CONNECTICUT

FLORIDA

FLORIDA

FLORIDA

FLORIDA

FLORIDA

FLORIDA

FLORIDA

FLORIDA

GEORGIA

ILLINOIS

ILLINOIS

LOUISIANA

MARYLAND

MINNESOTA

MISSISSIPPI

MISSISSIPPI

IDAHO

NORTH CAROLINA

NEW HAMPSHIRE

NEW HAMPSHIRE

NEW HAMPSHIRE

OHIO

SOUTH CAROLINA

SOUTH CAROLINA

SOUTH CAROLINA

SOUTH CAROLINA

TEXAS

TEXAS

TEXAS

TEXAS

TEXAS

TEXAS

UTAH

VIRGINIA

VIRGINIA

WISCONSIN

MARYLAND

WEST VIRGINIA

NOTE: Four traces have been omitted because it was the same purchaser on the same date buying additional firearms. All involved purchases in Florida.

## TOTAL FIREARMS SUBMITTED FOR TRACING STUDY - 300

## INVALID TRACES

Traces submitted with error in serial number	(16)	(5%)
Traces involving retail dealer investigations	(10)	(3%)
Traces involving theft of firearm from retail dealer	(10)	(3%)
Traces involving investigations of obliterated serial number	(3)	(1%)
Traces involving same purchaser on same date with different firearm	(5)	(2%)
Total valid traces where first retail purchaser has been identified	256	

**Department of the TREASURY****NEWS****BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
Washington, D.C. 20226 202/961-7268

Public Affairs Office

April 12, 1976  
FY-76-58ATF Fact SheetPROJECT 300 STUDYThe Study:

This is an in-depth study of 300 randomly selected handguns submitted to the Bureau of Alcohol, Tobacco and Firearms for tracing.

Purpose: To determine how handguns enter criminal channels, and chart the life history of handguns from the time they are made until their seizure or association with crime.

Handguns were selected from 11,810 handguns traced by ATF between October 1974 and June 1975. Handguns were selected for the sample (a) which had been successfully traced to a retail dealer. (b) which indicated movement interstate. (c) which were introduced into commerce beginning in 1972. (d) which were not known to have been stolen. Guns traced from firearms retailers to first retail purchaser and, as necessary, to other persons who came into possession of each gun.

FINDINGSStolen guns

Original ATF source data indicated none of the 300 guns in the study was stolen. Investigation showed that in fact 66 (22%) of the 300 guns were stolen or allegedly stolen. This was because many owners failed to report handgun theft or used theft to explain how guns left their possession.

Of 43 known persons arrested with stolen firearms, 29 (67% of 43) had a felony conviction.

Invalid identification (Data base, 256 handguns traced to first retail purchaser)

40 persons (16% of 256) used invalid identification to purchase firearms; 24 used false names or addresses; 16 were not residents of states where firearms were purchased.

23 persons (9% of 256) used a Social Security card to purchase firearms, in violation of ATF ruling; 8 of the 23 provided false identification.

Convicted felons

22 of 74 last owners (30 % of 74).

9 of 127 second owners (7% of 127).

16 of 256 first retail owners (6 % of 256).

Felons arrested with trace firearm

22 of 54 last owners (41 % of 54).

7 of 30 second owners (23 % of 30).

9 of 50 first retail purchasers (18 % of 50).

Friends and relatives

25 of 30 (84% of 30) second owners arrested with trace firearms obtained their firearms from friends or relatives.

Note: It was not possible to repeat this analysis beyond the second owner.

Street crime (Data base, 300 handguns)

197 handguns (66% of 300) were used or seized incident to a street crime.

Saturday Night Specials (Data base 300 handguns)

88 handguns (29 % of 300) in the study were so-called Saturday Night Specials by ATF definition: .32 caliber or less, length 3 inches or less, cost \$50 or less.



Narcotics violations (Data base, 300 handguns)

47 handguns (16 % of 300) were involved in narcotics offenses.

Dealer violations (Data base, 300 handguns)

9 handgun traces (3 % of 300) involved retail dealer violations of the Gun Control Act. This figure does not include instances where dealers accepted invalid identification in the purchase of firearms.

Sale and recovery (Data base, 300 handguns)

Florida led all states in this random sample with 38 (13%) of 300 handgun sales. Florida is a state with relatively few restrictions on firearms sales.

New York led all of the states in this random sample in which firearms were traced or recovered. Of 300 handguns, 52 (17% of 300) were traced or recovered in New York, a state with relatively severe restrictions on firearms sales.

Time from first sale to trace or recovery (Data base, 193 handguns used incident to crime)

The average time between the first retail sale of a firearm and its trace or recovery incident to a crime was 13 months.

DEPARTMENT OF THE TREASURY,  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS,  
Washington, D.C., Aug. 26, 1975.

Memorandum to: Assistant Director (Criminal Enforcement).

From: Acting Chief, Special Programs Division.

Subject: Saturday Night Specials.

Statistics for 1974 were compiled from the National Gun Tracing Center regarding the use of "Saturday Night Specials" as compared to more expensive handguns in the commission of certain crimes. The guns used in the study included Colt (CLT), Smith and Wesson (SMW) (expensive handguns), Rohm (ROM), Clerke (CLK), and Imperial Metal Products (IMP) (Saturday Night Specials). For the purposes of this study only, the term "Saturday Night Specials" describes all firearms made by Rohm, Clerke, and Imperial Metal Products. Neither the cost factors, barrel lengths nor caliber of the firearms were a factor in the definition. A total of 33,184 firearms were traced during the year of which 10,492 were used in this study.

Based solely upon an analysis of the 10,492 firearms traced we found that "Saturday Night Specials" were used no more frequently in the commission of crime than the more expensive handguns and in some cases less frequently.

Generally, the "Saturday Night Special" was used as often as Smith and Wesson and Colt in crimes such as all other assaults (AOT), carrying a concealed weapon (CCW), murder (MUR), robbery (ROB), and Title II (TO2). The Colts and Smith and Wessons were used slightly more often in burglary and narcotics cases.

Colts and Smith and Wessons were stolen more often than the Saturday Night Specials, and were involved in more ATF violations.

The statistics list 10,832 of the guns traced as Miscellaneous (MIS), of which 6,744 of these miscellaneous guns were traced for Project I cities and the other 4,088 gave no reason or crime involved.

DONALD ZIMMERMAN.

MONTHLY FIREARMS TRACING REPORT: PERIOD, JAN. 1 TO DEC. 31, 1974—SUMMARY OF REASONS FOR TRACE REQUESTS

	In current period	Previous periods	Total year to date	Percent
Murder investigations.....	1,810	0	1,810	0.05
Rape investigations.....	26	0	26	0.
Robbery investigations (all others).....	1,024	0	1,024	.03
Assault on police officer.....	183	0	183	.01
Assault (all others).....	464	0	464	.01
Burglary investigations.....	648	0	648	.02
Larceny-theft (except auto).....	49	0	49	0.
Auto theft investigations.....	20	0	20	0.
Arson investigations.....	12	0	12	0.
Explosives investigations.....	12	0	12	0.
Fraud investigations.....	7	0	7	0.
Stolen or suspected stolen.....	2,725	0	2,725	.08
Vandalism investigations.....	3	0	3	0.
Narcotics investigations.....	683	0	683	.02
Gambling investigations.....	16	0	16	0.
Drunk driving investigations.....	2	0	2	0.
Liquor investigations.....	1	0	1	0.
Miscellaneous investigations.....	10,832	0	10,832	.33
Kidnapping investigations.....	43	0	43	0.
Carrying concealed weapon.....	297	0	297	.01
Hijacking investigations.....	2	0	2	0.
Interstate transportation investigations.....	153	0	153	0.
Title 1 investigations.....	5,300	0	5,300	.16
Title 2 investigations.....	577	0	577	.02
Title 7 investigations.....	3,388	0	3,388	.10
Title 11 investigations.....	12	0	12	0.
OCB investigations.....	82	0	82	0.
Dale investigations.....	1	0	1	0.
All other ATF investigations.....	4,812	0	4,812	.15

## CODE KEY

AOI	All Other ATF Investigations
AOT	Assault all others
APO	Assault on a Police Officer
ARS	Arson
AUT	Auto Theft
BKR	Bank Robbery
BUR	Burglary
CCW	Carrying a Concealed Weapon
DAL	Dale Investigations
EXP	Explosives
FRA	Fraud
GAM	Gambling
HIJ	Hijacking
INT	Interstate Theft
KID	Kidnapping
LAR	Larceny
MEX	Firearms to Mexico
MIS	Miscellaneous (Project I)
MUR	Murder
NAR	Narcotics
OCD	Organized Crime Drive
RAP	Rape
ROB	Robbery
SST	Stolen or Suspected Stolen
TO1	Title I Investigations
TO2	Title II Investigations
TO7	Title VII Investigations
T11	Title XI Investigations
VAN	Vandalism

[In percent]

Crimes	Total	Colt	Smith and Wesson	Clerke	Rohm	Imperial Metal Products
AOT.....	3	1½	1½	2	1½	1½
BUR.....	2	2	2½	1	1	1½
CCW.....	1	1	1	2	1	1½
MUR.....	5	5	6½	4	6½	4½
NAR.....	2	3	2	1	½	1
ROB.....	3	3½	3½	4	2½	2
SST.....	8	7	8	4	3½	2
TO1.....	16	18	16½	13	11	8
TO2.....	2	½	½	(1)	½	½
TO7.....	10	10	10	6	8	5
Police reason unidentified.....	33	29	32	55	48	63
ATF reason unidentified.....	15	15½	13	7	14½	9
Total percent reason unidentified.....	48	44½	45	62	62½	72

¹ Less than ½ percent.

## COLT

	Successful	Unsuccessful	Total	Percent of make	Percent of total
CLT-----	2,014	1,592	3,606		0.1086
AOI-----	297	260	557	0.1544	.15
AOT-----	35	26	61	.0169	.03
APD-----	17	16	33	.0091	.01
ARS-----	0	2	2	.0005	0
AUT-----	2	1	3	.0008	0
BKR-----	6	8	14	.0038	0
BUR-----	36	32	68	.0188	.02
CCW-----	22	11	33	.0091	.01
EXP-----	1	1	2	.0005	0
GAM-----	1	0	1	.0002	0
INT-----	7	2	9	.0024	0
IRA-----	3	0	3	.0008	0
KID-----	5	4	9	.0024	0
LAR-----	1	1	2	.0005	0
MIS-----	551	511	1,062	.2945	.33
MUR-----	106	102	208	.0576	.05
NAR-----	54	51	105	.0291	.02
OCD-----	5	4	9	.0024	0
RAP-----	3	0	3	.0008	0
ROB-----	69	58	127	.0352	.03
SST-----	125	132	257	.0712	.08
TOB-----	1	0	1	.0002	0
TO1-----	425	218	643	.1783	.16
TO2-----	16	10	26	.0072	.02
TO7-----	219	139	358	.0992	.10
Total-----				.9959	1.01

## CLERKE

	Successful	Unsuccessful	Total	Percent of make	Percent of total
CLK-----	757	50	807		0.0243
AOI-----	54	3	57	0.0706	.15
AOT-----	16	0	16	.0198	.03
APD-----	4	0	4	.0043	.01
BKR-----	1	0	1	.0012	0
BUR-----	6	1	7	.0086	.02
CCW-----	12	4	16	.0198	.01
INT-----	1	0	1	.0012	0
MIS-----	412	31	443	.5483	.33
MUR-----	32	2	34	.0421	.05
NAR-----	8	0	8	.0099	.02
RAP-----	2	0	2	.0024	0
ROB-----	27	4	31	.0384	.03
SST-----	27	1	28	.0384	.08
TO1-----	106	1	107	.1325	.16
TO2-----	1	0	1	.0012	.02
TO7-----	48	3	51	.0619	.10
Total-----				1.0006	1.01

## ROHM

	Successful	Unsuccessful	Total	Percent of make	Percent of total
ROM.....	991	719	1,710		0.0515
AOI.....	164	87	251	0.1467	.15
AOT.....	9	15	24	.0140	.03
APD.....	7	2	9	.0052	.01
BKR.....	1	0	1	.0005	0
BUR.....	9	8	17	.0099	.02
CCW.....	5	8	13	.0076	.01
INT.....	2	3	5	.0029	0
LAR.....	1	2	3	.0017	0
MIS.....	458	366	824	.4818	.33
MUR.....	69	45	114	.0666	.05
NAR.....	8	3	11	.0064	.02
ROB.....	23	21	44	.0257	.03
SST.....	39	24	63	.0368	.08
TO1.....	111	75	186	.1087	.16
TO2.....	3	4	7	.0040	.02
TO7.....	80	56	136	.0795	.10
VAN.....	2	0	2	.0011	0
Total.....				.9991	1.01

## IMPERIAL METAL PRODUCTS

	Successful	Unsuccessful	Total	Percent of make	Percent of total
IMP.....	72	64	136		0.0040
AOI.....	6	6	12	0.0882	.15
AOT.....	2	0	2	.0147	.03
BUR.....	1	1	2	.0147	.02
CCW.....	0	2	2	.0147	.01
MIS.....	41	45	86	.6323	.33
MUR.....	4	2	6	.0441	.05
NAR.....	0	1	1	.0073	.02
ROB.....	0	1	1	.0220	.03
SST.....	2	2	3	.0220	.08
TO1.....	8	3	11	.0808	.16
TO2.....	1	0	1	.0073	.02
TO7.....	6	1	7	.0514	.10
Total.....				.9995	1.00

## SMITH &amp; WESSON

	Successful	Unsuccessful	Total	Percent of make	Percent of total
SMW.....	2,806	1,427	4,233		0.1275
AOI.....	380	173	553	0.1306	.15
AOT.....	36	26	62	.0146	.03
APD.....	16	10	26	.0061	.01
ARS.....	2	1	3	.0007	0
AUT.....	0	1	1	.0002	0
BKR.....	3	6	9	.0021	0
BUR.....	63	37	100	.0236	.02
CCW.....	21	14	35	.0082	.01
DAL.....	1	0	1	.0002	0
EXP.....	1	0	1	.0002	0
FRA.....	1	0	1	.0002	0
GAM.....	7	0	7	.0016	0
HIJ.....	2	0	2	.0004	0
INT.....	16	7	23	.0054	0
KID.....	3	0	3	.0070	0
LAR.....	7	2	9	.0021	0
MEX.....	3	0	3	.0007	0
MIS.....	892	468	1,360	.3212	.33
MUR.....	171	100	271	.0640	.05
NAR.....	50	32	82	.0193	.02
OCB.....	9	5	14	.0033	0
RAP.....	1	3	4	.0009	0
ROB.....	101	49	150	.0354	.03
SST.....	231	114	345	.0815	.08
TO1.....	481	225	706	.1667	.16
TO2.....	18	9	27	.0063	.02
TO7.....	290	145	435	.1027	.10
Total.....				.9989	1.01



	Total	Clerke	Colt	Imperial Metal Products	Rohm	Smith & Wessen
AOI.....	0.15	0.0706	0.1544	0.0882	0.1467	0.1306
AOT.....	.03	.0198	.0169	.0147	.0140	.0146
AP0.....	.01	.0043	.0091		.0052	.0061
ARS.....	0		.0005			.0007
AUT.....	0		.0008			.0002
BKR.....	0	.0012	.0038		.0005	.0021
BUR.....	.02	.0086	.0188	.0147	.0099	.0236
CCW.....	.01	.0198	.0091	.0147	.0076	.0082
DAL.....	0					.0002
EXP.....	0		.0005			.0002
FRA.....	0					.0002
GAM.....	0		.0002			.0016
HJJ.....	0					.0004
INT.....	0	.0012	.0024		.0029	.0054
IRA.....	0		.0008			
KID.....	0		.0024			.0007
LAR.....	0		.0005		.0017	.0021
MEX.....	0					.0007
MIS.....	.33	.5483	.2945	.6323	.4818	.3212
MUR.....	.05	.0421	.0576	.0441	.0666	.0640
NAR.....	.02	.0099	.0291	.0073	.0064	.0193
OCD.....	0		.0024			.0033
RAP.....	0	.0024	.0008			.0009
ROB.....	.03	.0384	.0352	.0220	.0257	.0354
SST.....	.08	.0384	.0712	.0220	.0368	.0815
TOB.....	0		.0002			
TO1.....	.16	.1325	.1783	.0808	.1087	.1667
TO2.....	.02	.0012	.0072	.0073	.0040	.0063
TO7.....	.10	.0619	.0992	.0514	.0795	.1027
VAN.....	0				.0011	
Total.....	1.01	1.0006	.9959	.9995	.9991	.9989

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
Washington, D.C., September 24, 1975.

Hon. WILLIAM E. SIMON,  
*Secretary of the Treasury, Department of the Treasury,*  
*Washington, D.C.*

DEAR MR. SECRETARY: As you will no doubt agree, the growing number of incidents of handgun related violence presents this country with a problem of monumental proportions. In 1973 over 10,000 Americans were murdered by handguns and many more were seriously injured by felons armed with these easily concealable weapons. Although handguns constitute only one-fourth of all privately owned firearms, they are used in more than three-fourths of all criminal gun violence. Moreover, our arsenal of handguns continues to expand at an alarming rate. Each year almost two million new handguns are produced and sold in this country thereby fueling a domestic arms race among our citizens which can only insure further tragedies.

This terror, which confronts millions of Americans each year, was brought into sharp focus by the recent near tragedy involving the President earlier this week in San Francisco. Apparently only the immediate and heroic response of citizens and police officers averted yet another assassination. It is high time for the Federal Government to fulfill its obligation to these and other citizens and enact a gun control measure which will halt the proliferation of easily concealable, non-sporting firearms such as the .38 revolver allegedly used in the incident in San Francisco. I noticed with particular interest that both my bill, which passed the Senate in 1972, and which I reintroduced this year, as well as President Ford's gun control bill would have prevented the commercial sale and delivery of this weapon.

As you know, our Subcommittee has been holding a series of hearings on these bills and the enforcement of the present Gun Control Act of 1968 by the Bureau of Alcohol, Tobacco and Firearms. Over the course of these hearings we have been particularly interested in the Bureau's use of regular agents as well as informers to detect transactions made in violation of the 1968 Gun Control Act. I am concerned, however, over reports which indicate that Sara Jane Moore, who has been arrested and charged with firing a shot at the President last Monday, may have been operating as an informer and, in fact,

involved in the acquisition of handguns for the Bureau of Alcohol, Tobacco and Firearms. Particularly alarming is the possibility that the alleged assailant obtained the very weapon involved in the assassination attempt in her capacity as an informant for the Bureau.

In light of the very serious implications raised by these reports I am requesting a full and complete explanation of the Bureau's involvement with Sara Moore and the particular circumstances surrounding her receipt of the .38 revolver allegedly fired at the President on September 22.

While realizing the very sensitive Constitutional issues involved in your investigation, I am confident that the Department will judiciously and expeditiously respond to this inquiry.

Sincerely,

BIRCH BAYH,  
*Chairman, Subcommittee to Investigate Juvenile Delinquency.*

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THE SECRETARY OF THE TREASURY,  
*Washington, D.C., Oct. 9, 1975.*

Hon. BIRCH BAYH,  
*Chairman, Subcommittee to Investigate Juvenile Delinquency, Committee on the Judiciary, U.S. Senate, Washington, D.C.*

DEAR BIRCH: I share your concern over the misuse of handguns in this country today. The problem lies in trying to arrive at a solution which meets the need but does so without imposing oppressive restrictions on the millions of Americans who daily possess and use firearms in a safe and sane manner. The Administration tried to reach this balance in its proposed firearms legislation.

I have enclosed a synopsis report from the Bureau of Alcohol, Tobacco and Firearms on the Sara Jane Moore incident which I believe will provide the information you have asked for. If you have any further questions in this regard, please let me know.

With best regards,  
Sincerely yours,

WILLIAM E. SIMON.

Enclosure.

DEPARTMENT OF THE TREASURY,  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS,  
*Washington, D.C.*

#### SYNOPSIS REPORT ON THE SARA JANE MOORE INCIDENT

The first and only contact the Bureau of Alcohol, Tobacco and Firearms had with Sara Jane Moore began on Saturday, September 20, 1975, when a San Francisco police officer called an ATF agent stating he had an informant who was willing to introduce an undercover agent to Mark Fernwood, Danville, California, who was selling guns illegally. The officer asked if ATF was interested, and the agent stated that he was. Arrangements were then made for ATF agents to meet with San Francisco police officers and the informant on Sunday morning, September 21, 1975.

The officers all met in the San Francisco Police Department Building early on Sunday morning and then proceeded to meet the informant who was Sara Jane Moore. She agreed to take an ATF agent, acting in an undercover role, to meet Mr. Fernwood from whom she had previously bought a handgun. The agent was only introduced to Sara Jane Moore as "Chuck" and he was not identified to her as a Federal officer. Sara Jane Moore's role was simply to introduce the agent to Mr. Fernwood and then drop out of the picture. Sara Jane Moore was not offered or paid any reward for her services, nor was she given any money to be used by her to buy a gun from Mr. Fernwood in behalf of ATF.

Sara Jane Moore drove her personal car to Danville, California, followed by the officers in another car, and they met on the parking lot of the United States Post Office in Danville. Sara Jane Moore and the undercover agent then drove to the Fernwood residence followed by the other officers who were to cover the operation from a point nearby. Sara Jane Moore introduced the ATF agent to Mr. Fernwood and the two men engaged in a conversation relating to

the sale of guns by Mr. Fernwood. The ATF agent did not buy a gun from Mr. Fernwood at this time. Sara Jane Moore made out a personal check to Mr. Fernwood in payment for the .44 caliber revolver she had bought earlier from him. Sara Jane Moore and the ATF agent then returned to the other officers, after which Sara Jane Moore departed and the officers returned to San Francisco. The ATF agents have not had any contact with Sara Jane Moore since that time.

The purchase of the .38 caliber Smith and Wesson revolver from Mr. Fernwood on Monday, September 22, 1975, by Sara Jane Moore was of her own volition, and not with the knowledge or approval of anyone from the Bureau of Alcohol, Tobacco and Firearms.

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Senator HRUSKA. The subcommittee will stand in adjournment, subject to the call of the Chairman.

[Whereupon, at 2:20 p.m., the subcommittee recessed, to reconvene upon the call of the Chair.]

## HANDGUN CRIME CONTROL—1975–1976

### Oversight of 1968 Gun Control Act—The Escalating Rate of Handgun Violence

TUESDAY, JULY 22, 1975

U.S. SENATE,  
SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY,  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee (composed of Senators Bayh, Hart, Burdick, Kennedy, Mathias, Hruska, and Fong) met, pursuant to notice, at 11:10 a.m., in room 318, Russell Senate Office Building, Senator Birch Bayh (chairman of the subcommittee), presiding.

Present: Senators Bayh, Kennedy, and Hruska.

Also present: John M. Rector, staff director and chief counsel; Mary Kaaren Jolly, editorial director and chief clerk; and Kevin O. Faley, assistant counsel.

Senator BAYH. We will convene our hearing this morning.

The subcommittee's enabling resolution, S. Res. 72, section 12, 94th Congress, is hereby noted for the record.

#### OPENING STATEMENT OF SENATOR BIRCH BAYH, CHAIRMAN

Senator BAYH. I do appreciate the fact that the Attorney General, as busy as he is, is here. He is an instrumental and fundamental part of our continued efforts including this series of hearings designed to explore current and suggested initiatives to more effectively curb the senseless slaughter of innocent human beings and the ever-escalating number of armed assaults and robberies involving firearms, especially handguns.

We are conducting a thorough and careful review of the Gun Control Act of 1968 which was written and developed by this subcommittee. We want to learn what we can be done to stem diversion, or theft, of firearms from legitimate channels of commerce, from licensed manufacturers, wholesalers, and dealers. No one really knows how many firearms are stolen or lost in transit. In fact there is no requirement—I think that is one of the weaknesses that we have already had brought to our attention—no requirement that thefts or losses of firearms be reported to the appropriate authorities.

Conservative estimates, however, set the number of stolen weapons at 10,000 per year. Law enforcement authorities have informed this subcommittee that diverted guns—illegal weapons—are especially sought after by criminals who pay more for these nontraceable



weapons than for new weapons purchased over the counter through legitimate channels. They report that numerous burglary and fencing rings specializing in guns have been formed to exploit this new, highly profitable, illicit market. In some instances stolen weapons have been smuggled into Mexico and other countries for purposes of trading for heroin.

We are likewise concerned about the growing pattern of illicit interstate traffic in firearms or "gunrunning" in violation of Federal law. Treasury Department studies presented to the subcommittee in April clearly demonstrated the serious impact that such criminal activity has had in major, particularly some of our northern cities. The Bureau of Alcohol, Tobacco and Firearms conducted a study to determine, among other things, the source of handguns used in street crimes. The agents found that of 2,546 traceable weapons seized in New York City—which is a pretty good sampling, let me say—77 percent were traced out of the State of New York. In fact, one Southern State alone supplied five times as many of the handguns seized in New York City as did the State of New York. In Detroit, 92 percent of the traceable handguns were from sources outside the State of Michigan. Of course, the interstate traffic in handguns between unlicensed persons is illegal under existing Federal law. What can we do to see that it's better enforced?

We are also concerned about multiple purchases of handguns. I was recently informed of a case in which an individual purchased, legally, 136 handguns in 7 months, and then sold them out of the trunk of his car in a major urban area. It seems to me this would cause a great deal of suspicion about where those weapons are ultimately destined.

Likewise, I believe it important that we assure that prohibited classes of persons, including convicted felons, fugitives, drug addicts, and those who are mentally defective, are not permitted to purchase handguns. For example, we would be interested to learn whether the dealers who sold the 20 weapons seized at the SLA stronghold in Los Angeles last May had complied with those sections of the act.

We are especially interested today to discuss with Attorney General Levi, President Ford's crime bill as it pertains to these issues.

#### RELATION OF PRESIDENT'S MESSAGE TO PREVIOUS PROPOSALS

The crime message contained several provisions which are remarkably similar to my Violent Crime and Repeat Offender Act introduced some weeks ago. Key provisions of my proposal have received Senate approval in past years and include:

1. The prohibition of the commercial sale and distribution of non sporting handguns;
2. Strict mandatory sentencing for those convicted of using firearms in the commission of a felony;
3. Stiff mandatory prison sentences for adult nonaddicted persons convicted of pushing heroin or morphine;
4. Federal penalties for those attempting to steal controlled drugs from pharmacies; and
5. Stricter sentencing provisions for repeat violent criminal offenders.



I understand that the President's gun control measure is virtually identical to the bill I introduced and the Senate passed by a vote of 68-25 in 1972. This proposal, now title II of my present bill, would ban the commercial sale of those small, easily concealable, nonsporting handguns which have become the favorite sidearm of street criminals.

The President's proposal appears in another respect to address the serious problem of crime involving the use of firearms and thus is similar to Title III of my bill providing mandatory penalties for these offenses, which passed the Senate 88-12 in 1973. In this regard, I would invite his support for my Title provisions which expedite these cases on the Federal court docket.

Additionally, the President has recommended the establishment of a Federal waiting period between the purchase and the receipt of handguns. As I have recently indicated, I am especially interested in this type of proposal which was, in part, the focus of our April hearing. It is aimed at preventing felons, the insane, and other prohibited purchasers, and not sportsmen and otherwise law-abiding persons, from purchasing handguns. The expense of such a program on a national basis is a major concern of mine which I hope we can learn more about today. We have seen estimates of licensing and registration or confiscation schemes, which I do not support, which range from \$1 to \$5 billion.

I am most appreciative of the Attorney General's concern about these important matters and pleased that he has joined us today in our effort to develop new initiatives to stem the violence in our cities not by restricting the right of honest sportsmen to possess legitimate sporting weapons, but by seeking to keep weapons which are unsuitable for hunting or sport from criminals who use them to hunt and kill people.

I am looking forward to working with the Attorney General and the President because this Senate has already expressed strong support for that particular type of measure.

Mr. Attorney General, I will not speak further because I know you are extremely busy. I am looking forward to working with you. I mentioned, while you were on the telephone the deep concern we have over what we can do to curb handgun violence. One item that has been brought to our attention which I understand, you and President Ford are pursuing relates to a Federal waiting period. I think this is a critical missing link in our efforts to control illegal use and illegal possession, or possession by people who are illegally possessing firearms today. For those who operate sporting goods stores in northern Indiana, western Nebraska or elsewhere, the Federal law prohibits certain classes of people from possessing firearms. A person who is a felon is denied the right to own a firearm, for obvious reasons. Yet, there is no way of checking, after a person is released from a Nebraska prison, or the prison outside of my hometown in Terre Haute, when the felon goes into the sporting goods store and buys a weapon. The sporting goods storeowner doesn't know him; there is no waiting period to take advantage of relevant information the FBI, or local police, or State police might have. I think we could provide for a waiting period that would be sensible and not impose a hardship on those who have a legitimate reason

for possessing a firearm. This is one of the contributions we can make to try to deal with the use of firearms in crime.

I would like to ask my distinguished colleague from Nebraska if he has any opening remarks. And again, I appreciate your being with us, Mr. Attorney General.

### STATEMENT OF SENATOR HRUSKA

Senator HRUSKA. Thank you, Mr. Chairman.

I come here under forced draft, as it were, because we are trying to mark up four appropriations bills today; and inasmuch as I have had some part in formulating those bills, I ought to be there—and shall return very shortly—to see that my interests and the interests of my constituents, and the interests of the taxpayers will best be served.

Mr. Chairman, we have traveled this road many times, and there are certain things that we can do, and certain things that we as Congress cannot do. There is now under consideration a bill, which I hope will soon be submitted for consideration by the Senate and later by the House. The differences are not too great in the bill and it is thought by those who are working on it that some resolution of these differences can be made, and I trust will be made.

I think we need a deliberate way of formulating the bill so that we can facilitate and expedite the work of this committee, and also of the Senate. If we make a false start, it is going to be very difficult to back up and recover our position in the eyes of the many people who are very emotional about this issue, both ways; both for abolition of guns and registration of guns.

I think it would be very, very helpful. The idea and the fetish of too many Americans still is, "Let's pass a law, get it signed, and then go on to other things," and that is what happened in large measure in 1968 when we passed the law that's now on the books.

It is not true that there is nothing we can do about the man who is a nonresident who goes to the store and buys a gun, and then moves interstate. You cannot go from Brooklyn to North Carolina and buy up 20 guns and return to Brooklyn, where they are illegal, and sell them, and not engage in two or three violations of Federal law with heavy, stern penalties.

But I tell you where one of the difficulties is. We have a handful of agents, Mr. Chairman. I forget the number of licensed dealers in America, but what does it approximate, 50,000, 60,000, 150,000?

Senator BAYH. 156,000.

### INADEQUATE ENFORCEMENT OF EXISTING LAWS

Senator HRUSKA. 156,000, and the budget for the people who are the gun control people is minuscule, it is virtually nonexistent compared to the vast job of trying to police and monitor those dealerships. And we ought to tighten up on the definition and qualification of the dealerships. But notwithstanding that, the Federal law is broken regularly and often. There is inadequate enforcement of the existing firearms laws.

We can pass another law, we can increase the number of statutes in this area, but without an effort to get into the coffers of the

Treasury and increase enforcement personnel and tighten up on the traffic of illieit guns, we are never going to get the job done.

I do not believe we can easily arrive at an accepted definition of a "Saturday Night Special." To define a Saturday Night Special as a cheap, ill-made and unreliable gun, to only permit the manufacture of guns that will cost \$150, or \$200 is not, in my judgment, a Saturday Night Special law. It's a law that will go partially into the business of depriving the people who want to buy guns, a larger choice of guns.

I am very concerned about the crime figures that were released here lately. All of us are, but that doesn't mean that we should do something immediately and then feel satisfied that we have taken some steps and we are in the clear.

It is a difficult subject, and if anyone has any doubt about it, all he has to do is to take the several titles of the United States Code and apply to them the several changes, 45 or 50, that are sought to modify those Federal provisions. Most assuredly you will find yourself in a state of confusion every once in awhile, going through that exercise.

I do hope we can consider the matter in that light and with the cooperation of not only the people on the committee, but others in the Senate who can be consulted about this, come up with a measure that will be reasonably within the consensus of the Senate.

But, if we are going to resort again to either a bill to prohibit private ownership, or an amendment to require registration, or to require gun permits, of which those respective measures when last considered in the Senate received 15, 11, and 7 favorable votes respectively, then we will make no progress whatsoever because it is totally unacceptable to think in terms of registration, or prohibition, or gun permits, it can't be done politically. I think even if it could be done politically, it could not be enforced and certainly not by Federal authorities.

So, I fear I shall have to go back to the Appropriations Committee, Mr. Chairman. I do believe that after we have some specific legislative proposals introduced, perhaps we can invite the Attorney General to analyze them—and there will be several of them, I would think. We could invite the Attorney General to analyze the bills and return here and give us the benefit of his thinking on the several proposals.

Senator BAYL. Well, thank you, Senator Hruska. I certainly understand your plight. Earlier this week, as you know—I guess it may have been last week, we have been so busy I lose track of time—I found myself with an appropriations markup going on while we were debating the important Voting Rights bill. Fortunately we have the kind of relationship in which we can have communication even in absentia.

#### ADVICE AND COUNSEL OF THE ATTORNEY GENERAL REQUESTED

I hope the Attorney General will give us the benefit of his advice and counsel on the several measures which have been presently introduced, or already introduced, as well as give us a critique of the one which I understand we now have—



Senator HRUSKA. Is this hearing on specific legislative measures? I didn't know it was.

Senator BAYH. Well, I don't think this hearing is held for any other purpose than for the Attorney General to give us his advice and his thoughts on firearms control. It would not be an unreasonable coincidence if he expressed his opinion relative to the several measures that are before us. I hope his major focus will be on the administration proposal; but certainly, we want his analysis of the other measures that are pending before the subcommittee.

Senator HRUSKA. Well, I think that would be true, but the notice of this meeting was for the purpose of considering—with alarm, I suppose—the escalating crime rates in which firearms are involved.

Now, normally, when we have hearings on specific legislative measures the notice says so. I was not under the impression that we were here to consider specific legislative measures. But if that is your wish, I suppose that can be done.

Senator BAYH. Well, I think my friend from Nebraska knows it is a fact of life that we are not going to try to—nor realistically could we—and he knows that I do not have the inclination to slip something through—

Senator HRUSKA. Not at all, I know you too well to think about anything like that.

Senator BAYH. \* \* \* particularly while we are in a little private session here where nobody is really going to know what is going on! That is not the case, and I am sure this will not be the last opportunity you will have to explore this. I think we must not unnecessarily inconvenience the Attorney General so we will ask for his presence sparingly. I am sure he will respond as often as we will ask him. I must say, I think he has been between—well, let's not say a rock and a hard place—but his time has been sorely tested, I think, being at as many places as Congress would like him to be, which has a legitimate right of asking him.

#### IMPORTANT ISSUE . . . FOR BEST INTEREST OF COUNTRY

Now, we are going to study the issue in greater detail before we move, but I would also hope that we do show that this committee can, and I honestly believe—and I say this realizing that my distinguished colleague from Nebraska and I do not see eye to eye on all aspects of this important issue—we have, in the past, evidenced will-  
ingness and ability to come to grips with those areas where we disagree, and moved forward in what we thought was in the best interest of the country.

I honestly feel this area of firearms control is as good an example of intense feelings on both sides of the issue as you are going to find any place. Our ability to continue to exist as a society—maybe that's overly dramatic, but we are facing a lot of problems today, and we have a lot of critical seemingly irreconcilable problems. It seems to me this is one area where we can show that it is possible for the cooler heads to assess the real merits of these issues. I look at some people on one side who feel crime is going to disappear, if all handguns are confiscated or if they take away all shotguns and rifles. Such views are about as naive as I know about.

On the other hand, there are all the bumper stickers you see that say, "People kill, guns don't," or "Take the guns away from people and then only criminals will have guns;" all these things which ignore the fact. It seems to me, that we have a responsibility to deal with how we can minimize—not totally remove because I don't think there is any way to do it—but how can we minimize access to firearms to those who are going to use them against society. That is not an easy goal and we must do this without great hardship on those who have reasonable use and a wholesome use for firearms.

I guess you have to get back to appropriations.

Senator HRUSKA. Will you excuse me?

Senator BAYH. I will excuse you.

Senator HRUSKA. Mr. Attorney General, I am sorry I cannot stay, but I do hope that you will avail yourself of our invitation to return at some later time.

Senator BAYH. Thank you, Senator HRUSKA. We have had some very vigorous expressions on both sides of this issue, my friend from Nebraska and I, and out of it all, I think, we have a great deal of respect for each other.

Senator KENNEDY. Don't leave your friend from Massachusetts out.

Senator BAYH. Oh, I didn't see my friend from Massachusetts. Senator Kennedy, I must have been looking elsewhere. Do you have opening comments?

#### STATEMENT OF SENATOR KENNEDY

Senator KENNEDY. Well, first of all, Mr. Chairman, I want to thank you for having these hearings this morning. I think all Americans, when they turned on the television, or radio, or read their newspapers this morning were shocked by the extraordinary escalation in crime and violence that the most recent statistics have reflected, and this problem of the growth of crime and violence has to bother and concern all Americans. And it should concern all of us in the Congress and the Senate of the United States.

And it's against this background, Mr. Chairman that you and I remember the series of Presidential Commissions that have been appointed, stretching back now for a period of 7 or 8 years, that virtually unanimously recognized that if there was to be one step that would be taken by the Congress of the United States to have the greatest impact in the area of crime and violence, it was in the area of gun control.

You and I and other members of this committee have tried to develop responsible legislation in this area, and we have been rebuffed time and time again by the members of the Congress who for far too long have been willing to yield to the extremely powerful lobbying in the Congress of the United States that has effectively thwarted what I consider the sentiments of the overwhelming majority of American people. The record is very clear, and once again we are considering this subject here today. How the members of Congress—my colleagues and your colleagues—can possibly justify opposition in the area of the Saturday Night Specials, whose range is no greater than 7 or 8 feet and whose only purpose is to



kill somebody, under the guise that this is really moving in on the legitimate sportsmen, that is something that you and I find difficult to accept, and certainly the American people must wonder about it as well.

#### FORMER ATTORNEYS GENERAL REFUSED POSITION ON GUN CONTROL

I want to thank the Attorney General for coming up here, Mr. Chairman. We have seen over the period since 1969, where the four former Attorneys General, Mr. Mitchell, Mr. Kleindienst, Mr. Richardson, and Mr. Saxbe, all who were the chief law enforcement officers of this country, refused to take any position on gun control—refused to take any position on gun control, in spite of the fact that their predecessors were willing to recognize the importance in the area of crime prevention and crime control.

And now Attorney General Levi has been willing to accept some responsibility in this area. I can say, Mr. Attorney General, it is certainly not to the extent that I would like to see, but I want to commend you for being willing to approach this particular issue, and to bring your concern and your interest into this particular area; and be willing to come up before the Congress and be willing to discuss it; and I can say from personal experience that you have been willing to meet with members of the Congress who have strong views on it, and exchange ideas, and have been willing to listen to those views. I would commend you personally for it.

Just finally, Mr. Chairman, one of the aspects of the approach, the regional approach which has been indicated by the Attorney General has to be seen against a background or setting of, those communities where crime is exceptionally widespread. For example, in my own State of Massachusetts, where the statistics by the commissioner of public safety indicate that 80 percent of the weapons that are used in crimes of violence in my own State come from areas outside of the State.

It concerns me deeply that even if we are able to develop some kind of regional control, that the opportunity and the ability to really control these weapons of violence going into these areas of crime, is something which is exceedingly limited.

#### MANDATORY SENTENCING . . . FACTOR FOR PROSECUTOR

But, I would hope, as you speak on this issue this morning, that you will also talk about the relationship between this growth of crime and violence that we have seen in this country. I for one have not been impressed by those that have called for more extended and mandatory jail sentencing for the use of hand weapons. What we have seen in instance after instance in jurisdictions which have provided additional kinds of mandatory sentencing, or additional kinds of sentencing, what happens is it turns out to be a discretionary factor for the prosecutor.

I don't know what your statistics show about the people who are serving prison sentences today because of actions that have been taken at the local or State level for mandatory sentencing for just the possession of weaponry. But I would say that the numbers are going to be extremely incidental, measured against the nature of the threat.

And once again, when we find there are those that are involved in armed robbery, and burglary, and rape, and other crimes of violence that are not even required to serve in the penal system of this country for a wide variety of different reasons, the idea that we are going to be able to expect that we are going to have prosecutors that are going to put people in jail because of the fact they violated a local or State ordinance on the basis of possession, I think, is unrealistic.

If you are able to meet that particular point, I would appreciate what comments you could make.

I do want to extend a word of welcome to you. As you understand from previous appearances here before this committee, and this morning the committee is divided, but probably not very intensely.

I would just make a final point. As you might have seen in the course of the debate on Friday last on the Consumer Protection Safety bill, an amendment that was offered by the Senator from Idaho, Senator McClure, to eliminate from the Hazardous Substances Act the power of the Consumer Product Safety Commission to even require labeling of ammunition; and to ban the Commission's power to issue regulations on defective ammunition. That amendment was accepted by the Senate.

Here we are dealing with defective ammunition that could explode in the face of the hunter who is using it. We were dealing with a simple provision that would eliminate from the control of the Consumer Product Safety Commission the requirement for labeling, the labeling that says, "keep out of the hands of children", "Store in a cool place." Because of that amendment there is no longer a requirement for the Commission to take even that simple step. And when we tried to return that authority and power to the Consumer Product Safety Commission, there were 11 members of the U.S. Senate that supported that amendment; and I would say that the chairman of this committee was one of those members.

What we were saying last Friday—the Senate was to the members of this country—"Consumer Product Safety Commission, go ahead and put requirements on labeling on furniture polish and on hair spray, but don't do it on ammunition, boys, because the gun lobby is too strong in this country."

So, I don't minimize the problems that you are going to have in trying to come up with a responsible and effective policy, Mr. Attorney General, but I want to indicate to you that you can expect my complete help and support in trying to get one if we are able to fashion one that is going to do something about crime and violence in this country in the area where important steps should be taken for the security of the American people, and not only in the inner cities but all parts of the country. I welcome you.

I thank the Chair.

Senator BAYH. Thank you, Senator Kennedy. I apologize for being so intense in my discussion with our friend from Nebraska that I temporarily ignored you.

I should say for the record that my friend and colleague from Massachusetts has been one of those who has consistently been willing to stand up and risk the consequences of taking a very strong position on this particular issue. In the day and age when unfortu-

nately all too many politicians adopt the "weather-vane philosophy" of making determinations, namely, sticking their finger up to see which direction the wind is blowing, certainly, our colleague from Massachusetts has not been in that category.

Mr. Attorney General, now that you have had this opportunity to warm up to the debate, the ball is in your court, sir; and we appreciate the efforts you have made to be here.

Mr. LEVI. Mr. Chairman, I am glad to see that the situation is normal. [Laughter.]

**STATEMENT OF HON. EDWARD H. LEVI, ATTORNEY GENERAL;  
ACCOMPANIED BY RONALD L. GAINER, DEPUTY DIRECTOR,  
OFFICE OF POLICY AND PLANNING; JACK FULLER, SPECIAL  
ASSISTANT TO THE ATTORNEY GENERAL; AND DOUG MARVIN,  
COUNSEL TO THE ATTORNEY GENERAL, DEPARTMENT OF  
JUSTICE**

Mr. LEVI. I would like to call attention to the fact that I am accompanied by three colleagues from the Department of Justice, Ron Gainer, Jack Fuller, and Doug Marvin, who know more about this subject than I do, and I may, if necessary, call on them for better answers than I can give.

I think the most helpful thing that I can do, and I say this quite seriously, is to speak in terms of specific proposals which have been worked out at this point in the Department of Justice as a way of implementing the administration's proposals which have been made, and place therefore before you these specific proposals.

I of course understand that these specific proposals can be subject to modifications of one kind or another, as indeed all bills can be, but I think, particularly in an area which has generated as much emotion as this one has, it sometimes is helpful to be talking about a particular proposal which may or may not go as far as some people think it should.

I do realize, of course, that other bills have been proposed, and other proposals have been made. And, Mr. Chairman, I realize also that to a considerable extent the bill that you have proposed has considerable similarity to the proposal I will be speaking about.

I would like to present to the committee today some proposals which we hope, if enacted, will help alleviate handgun abuse. As this hearing has already shown, handguns are a part of the heritage of our Nation, a heritage that has been noble, idealistic, and sometimes violent. I'm not referring to these hearings when I say "violent".

**HANDGUNS IN CONTEMPORARY URBAN VIOLENCE**

Statistics show the role handguns play in contemporary urban violence. The statistics about urban violence provide the reason why many Americans have purchased handguns. To millions of people in this Nation guns provide a measure of security, whether sometimes illusory or not, and have a psychological importance however unsuited handguns may be to our crowded urban environment.

It is sometimes argued that the only effective means of curbing handgun violence is the total elimination of the handgun. Yet even



that sweeping approach has its practical problems; there is good reason to doubt that such a prohibition would gain widespread compliance. Moreover, to speak of eliminating handguns is to speak of depriving many Americans of what they believe is a basic right, and this belief is widely and strongly held. In order properly to disregard to any extent these substantial feelings we should have a more compelling interest in mind. The compelling interest is that thousands of persons die or are permanently disabled each year by shots fired from handguns.

Senator BAYH. Excuse me. Would you prefer—and I think perhaps I should answer my own question—perhaps we should let you proceed and then ask questions because you have just touched on one of the many issues that I think are part of our problem: namely, that people have certain ideas of truth that are not self evident; perhaps they are self evident, but not based on good law, or indeed on the facts and figures.

I'll reserve my questioning. I guess you would probably prefer to just go ahead and finish your statement.

Mr. LEVI. Senator. I don't think that's up to me. There is a certain continuity to what I am going to read, but I don't think that continuity will be damaged in any way by wise statements, such as you have just made.

Senator BAYH. Well, since I have already interrupted and you are catching your breath. I do have one important question.

#### CONSTITUTIONAL RIGHT TO BEAR ARMS CONTROVERSY

One of the objections to handgun control that is consistently raised by people throughout the country—and they are very well-intentioned citizens—is that they have been led to believe that the Constitution of the United States, the second amendment, gives them the constitutional right to bear arms, unrestricted by any governmental regulations.

Could you please give us your legal interpretation, and give us your thoughts as to what the Supreme Court has ruled in this particular regard?

Mr. LEVI. Well, I would say that there really is no doubt that the Constitution does not prohibit the kinds of regulations that we are speaking about, or that your bill, S. 1880, proposes. The right of the people to bear arms, which is related to the militia, really is very remote from the subject of the misuse of handguns and the kinds of regulations we are speaking about.

I believe—and I don't want to make too grand a statement, one can always find somebody who disagrees—that generally the constitutional problem is not the real problem. I think what is the problem is that, whatever the Constitution may or may not say, there is a feeling that there is a right to possess guns. I think that is what we have to work with.

Senator BAYH. A prerequisite to good legislation is the elimination of myths which, intentionally or unintentionally, have been spread. Any careful analysis of the facts, the law, and the Constitution would reveal them as just that—myths. A number of court decisions have upheld various Federal firearms legislation. Thus, I hope

that in addition to good legislation these hearings will help to expose such myths.

I find, having been one involved in the Saturday Night Special legislation, a great deal of consistency between that effort and the 1935 Act that made it a Federal violation to own a sawed-off shotgun, merely because it has no useful purpose and was used to kill people. There seems to be, in my judgment, a direct relationship to those hand weapons that have no sporting purpose, are not good for target, they are just good for shooting one animal, and that has two legs.

One last question, and then I'll desist. Two major concerns are expressed. One is the "right" that people feel they have to avoid any controls whatsoever, allegedly protected by the Constitution. You clarified that very well.

The second one, which you as the Nation's top law enforcement official, I think, can deal with, is the feeling that a number of us have—and in fact I must say I am tempted to feel that way myself, personally because I, like most human beings, feel that I can handle a situation.

A number of people feel that they are safer from attack by those who would prey on them or their families if they have a hand weapon in the house. Could you give us your assessment as to the relative success of those people who have a handgun to protect themselves, versus the criminal who may be carrying a weapon?

#### THEORY OF HANDGUN HOME PROTECTION IS WRONG

Mr. LEVI. Well, I am sure there is other data on this, but the one basic item is that the number of accidental deaths caused by the possession of handguns is more than 4 times greater than the number of deaths of robbers and burglars caused by use of a gun to protect a home. So, the theory doesn't really work, although I think having a handgun does undoubtedly give a psychological feeling to many that is supportive.

Senator BAYH. I appreciate your touching on that because I must say this, those statistics have been brought rather dramatically to this subcommittee by those who are out there on the firing line, literally. And it runs so contrary to the feelings that most of us have, that I have—and I don't have a handgun in my house. But, I must say, if I were really concerned about protecting my family, I would have the feeling that if I had a handgun I would be a little safer, and my family would be a little safer.

But if I am a typical American householder, the statistics are, as you cited, that there are four times as many accidental deaths by hand weapons in the home when they are protected by the presence of a handgun. Is that what the statistics say?

Mr. LEVI. I don't think it's ordained in the stars that the United States is to be the country par excellence which is the "handgun country." And I think one has to hope that if there is a proper and acceptable regulations of handguns, Saturday Night Specials particularly, the need which many people feel for this kind of support—of possessing their own handgun and being able to use it because they think a crime is going to be committed against them—will also diminish.



And therefore it seems to me any legislative move which can build on what we now have, and can provide more effective enforcement of existing law, is extremely important because it ought to result in lowering this tension which can only result in more and more violence and more and more handguns.

That, I think, is the direction of the proposals that we are trying to make.

Senator BAYH. Thank you. Excuse me for interrupting.

Senator KENNEDY. Mr. Levi, could I ask one brief question? Could you tell us how many police officers were killed last year with handguns?

Mr. LEVI. I have the figure here.

Senator KENNEDY. Could you give it to us for the last 3 years, how many law enforcement officials were killed with handguns?

Mr. LEVI. Well, there were 130 policemen killed in 1973; 72 percent of those killed with firearms were killed with handguns.

Senator KENNEDY. What about 1974, do you have those?

Mr. LEVI. I do not have that data.

Senator KENNEDY. How about going back to 1972, or 1971, could you give us that?

Mr. LEVI. We can supply that for you, but I did not bring it with me.

[Subsequent to the hearing, the following information was received.]

[EXHIBIT No. 13]

Additional information concerning the number of law enforcement officers killed in recent years with handguns. For the years 1969 through 1973, the statistics are as follows:

Year	Officers killed with handgun	Officers killed with firearm	Total officers killed
1969.....	67	83	86
1970.....	73	93	100
1971.....	97	124	129
1972.....	75	109	114
1973.....	90	124	131
Total.....	402	533	560

Thus, of the 533 officers killed with a firearm between 1969 and 1973, 402 were killed with a handgun. Of the 560 officers killed during that period, 95 percent were killed with a firearm, and 75 percent of those killed with a firearm were killed with a handgun.

Senator KENNEDY. Is it your impression that the percentages remain about the same?

Mr. LEVI. My impression is they are going up.

Senator KENNEDY. As I understand, between 1964 and 1973, 840 police officers were killed in the line of duty, and 71 percent of those were killed by handguns. Would that be approximate?

Mr. LEVI. I am sure that is in the area.

Senator KENNEDY. Thank you.

Mr. LEVI. Some months ago the Department of Justice began an inquiry to try to find a solution to the problem of handgun abuse that would take into account the strongly held opinions that come

into play whenever gun control legislation is mentioned. As a result representatives of more than a dozen organizations which have taken a wide range of positions on the subject met with me and others from the Department of Justice concerned with the problem. We found a common concern for the dangers of handgun misuse and a general disagreement on the means necessary to curb that abuse. We learned a good deal from the discussion and have taken that learning into account in helping to devise the administration's gun control proposal. Few of those with whom we spoke will be wholly satisfied by the proposals which we are going to make because the very issue of gun control inspires that kind of passion which has little patience with any resolution short of an absolute.

#### STRENGTHS AND WEAKNESSES IN GUN CONTROL LAW

The discussions inevitably included an analysis of the strengths and weaknesses experience has revealed in the current Federal law regulating handguns. The most important component of the Federal legislative scheme is the gun control provisions enacted in 1968. That law does require that gun dealers be federally licensed. So, to have such a proposal now is not a new proposal. It also requires that they keep records of their sales. The existing legislation opens those records to inspection by Treasury Department agents. Moreover, the existing legislation prohibits the importation of cheap, highly concealable handguns commonly known as "Saturday Night Specials." It generally prohibits dealers from knowingly selling guns interstate and from knowingly selling guns to certain classes of individuals such as convicted felons.

Senator BAYH. Mr. Attorney General, did I hear the word "cheap?"

Mr. LEVI. Yes, and I use the word "cheap" because that is the way, as Senator Ilruska mentioned, that the Saturday Night Special is often described. I should say that I think the problem with the Saturday Night Special, other than its availability—and cheapness has something to do with that—is its concealability and its dangerousness, and its lack of any particular use other than in the area of crime.

So, I wouldn't myself wish to propose that a Saturday Night Special, which in every other respect met the definition, but nevertheless had a high price placed on it, should somehow be omitted from the proposal.

#### COST FACTOR NOT MAIN CRITERIA

Senator BAYH. The reason I raise the question, sir, is, as you know the basis for my definition and approach to the Saturday Night Special is identical to the 1968 act language developed to deal with the major source of the small, easily concealable, nonsporting hand weapons, most of which were imported from Japan, Germany, Italy and other countries in large numbers. We used the sporting purpose test and gave to the Secretary the responsibility of putting together factoring criteria. Inasmuch as we were concerned about the size and some of the safety mechanisms that caused the weapon to be a danger to the user, as well as the person on the other end, we established the criteria based on a number of things other than cost

because the easier it is to conceal, the easier it is to use against somebody.

The second reason I raised the question was, it's hardly good public policy to say, if you can afford a \$200 silver-plated weapon that's easily concealable—such as a well-manufactured derringer—that that is less dangerous than one of the same size that perhaps a less affluent person can go out and buy. So, you would not pursue the factoring criteria on the basis of the cost of the weapon?

Mr. LEVI. I would not, myself, want to place that emphasis on cost. I gather others might. And the nature of this problem is that we have to find a solution sufficiently agreeable to be effective. But I would be reluctant to argue that a weapon is dangerous in the hands of the poor, but safe in the hands of the wealthy; I wouldn't want to get into that.

Senator BAYH. I notice the President used the "cheap, highly concealable handguns".

Mr. LEVI. They are the cheaper ones, so that I think it's natural to refer to it that way. But the notion that somehow one can rescue a gun from that category by putting a higher price on it as a personal matter leaves me cool. However, as an official matter, if that's the only way to get effective gun control, I might buy it.

Senator BAYH. Well, let me just suggest as an official matter, that the measure which this Senator offered, and which passed the Senate only to die a rather insipid death in the House, did use the factoring criteria established by the Department, which dealt with the major increment of danger—namely the ease with which the weapon is concealable. And if we are to establish price as a criteria, then we are saying, it's all right if you are wealthy, you can go out and buy an expensive derringer to protect your family—if that's what you feel you are using it for—but if you are of more modest means, you can't go out and buy a cheap one. That's not good public policy.

Mr. LEVI. That is not the proposal we are making.

Senator BAYH. So that the word "cheap" used both by you and President Ford is not a part of the factoring criteria used in the bill; is that accurate?

Mr. LEVI. It is not in terms of the proposal that we are making.

[Subsequent to the hearing, the following information was received.]

[EXHIBIT No. 14]

The discussion of the references in the President's crime message and in the findings to "cheap" handguns centers primarily on the aspect of cost of the handgun. It should be noted that the word "cheap" was used instead of the word "inexpensive" in order to convey not only the idea of low cost but also the idea of poor quality. The factoring criteria in the administration's proposal related primarily to such matters as quality of construction and presence of safety and other features found on good quality handguns, and do not relate to the cost of the handgun.

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Senator BAYH. Fine.

Mr. LEVI. Although most of them are cheap, I think, so you could go the other way and say, well, would you like to put a ceiling on it. We have not proposed that.

Senator BAYH. Fine, I appreciate that. Most of them are inexpensive.



Mr. LEVI. The present legislation also prohibits a dealer from selling or delivering guns where their purchase or possession would be in violation of any State law or published ordinance applicable at the place of sale, delivery or other disposition.

#### SOLVING PROBLEMS OF REGISTRATION AND LICENSING

The 1968 Act has several flaws, and our proposals are intended to correct these. It must be admitted our proposals do not contain certain features many have felt are essential to a comprehensive handgun control program. National gun registration and licensing are considered by some to be important remedies; our proposals do not provide for these. Our proposals are directed at solving the same problems registration and licensing are put forward to solve. We believe that registration and licensing as usually understood and put forward may be illusory in the expectations that they create.

The provisions also contain no regionally triggered ban on the sale or possession of weapons. I mentioned as early as my confirmation hearings that I favored a regionalized approach to the handgun problem, one which would strike hardest in crowded urban areas where the problem really was the greatest. Some months ago I fleshed out that concept somewhat in a speech on the subject of handguns in which I suggested that a regional trigger mechanism be discussed, and what I had in mind was a mechanism which would put into effect strict Federal handgun controls—a prohibition on possession outside the home or business, for example—when the crime rate in a given metropolitan area reached critical proportions. That idea, as we expected, was greeted with mixed response. The chief problem was that the concept would have involved the Federal Government too closely in what is essentially a local law enforcement matter. U.S. attorneys would have become involved in prosecuting what are essentially local street crimes and the Federal presence would have significantly encroached upon local law enforcement. The practical problem is that the Federal criminal justice system is not equipped to handle such an imposing caseload. Moreover, drawing the boundaries and devising a proper triggering level proved themselves to be very difficult to resolve and would have inevitably resulted in some conscious and unconscious gerrymandering. Finally, the controls envisioned under the trigger proposal did not deal directly enough with the problem Federal law is most equipped to treat—general commerce in guns.

But the proposal we are now suggesting does involve a regional concept. It would provide additional enforcement in the Nation's 10 largest cities to attack the black market in handguns which provides the weapons for criminals. The Treasury's Alcohol, Tobacco and Firearms investigative force will increase by approximately 50 percent with a total of 500 new agents assigned to these target cities and these agents would not have any other duties. This is a regional approach that centers the Federal effort in places that need it the most, but it avoids the problems that faced the triggering concept.

#### FIRST—ELIMINATION OF SATURDAY NIGHT SPECIAL

Now, the draft legislation designed to carry out the administration's program operates on three broad fronts. The first is the elimi-

nation of the Saturday Night Special. This type of handgun, as we have been discussing, is cheap, is highly concealable, inaccurate, and inherently dangerous both to the possessor and to the citizenry at large. Its value lies only in its ability to create fear and inflict physical injury. A substantial step was taken in the 1968 law when the importation of these weapons was banned. That step was not sufficient because while the law also banned importation of frames and receivers, it did not ban the importation of the other parts necessary to make Saturday Night Specials, and it did not ban their domestic assembly and manufacture.

The administration's gun control proposal would ban the importation and domestic manufacture, assembly and sale of Saturday Night Specials. The major difficulty in banning the Saturday Night Special has been said to be in defining what it is you are prohibiting.

The proposal that we are making—similar to the one that you have made—uses a factoring system similar to the one currently used by the Treasury in its importation ban to identify Saturday Night Specials. This system was developed by the Treasury in consultation with various groups interested in handguns. It has been modified in order to make the standards more objective and more elective.

The system requires that pistols have a manually operated safety and that their combined length and height must be at least 10 inches with the height being at least 4 inches and the length at least 6 inches. Revolvers must pass a safety test to assure that they will not fire if dropped and must have a barrel at least 4 inches long in addition to a frame that is  $4\frac{1}{2}$  inches long. These minimum standards will assure that handguns have basic safety features and reduced concealability.

Handguns that meet these minimum standards must then achieve a point total with regard to certain features. Points are given for length beyond the minimum; the use of stronger materials in the frame construction; the weight of the weapon; and the existence of various items of miscellaneous equipment such as screw adjustable sights and target equipment. The purpose of these requirements is to assure that only safe and good quality handguns are available.

It is noteworthy that unlike the system promulgated in Treasury regulations under the 1968 act, the factoring system in the administration proposal is included within the statute. This assures that extensions of the standards cannot take place through administrative action but must have congressional approval.

Guns that are disapproved under the factoring test may not be manufactured, assembled, imported, sold, transferred, or shipped. Such weapons may, however, be shipped to gunsmiths so that they may be altered in such a way that they would not be Saturday Night Specials.

Senator BAYH. Mr. Attorney General, excuse me. We have a vote proceeding. I have 5 minutes to get there, and 1 minute to get back. Please rest your vocal chords. I apologize.

[Whereupon, at 12:10 p.m. a short recess was taken.]

Senator BAYH. I'm sorry, Mr. Attorney General. If you would please proceed, sir.



Mr. LEVI. Mr. Chairman, to continue with this statement, let me say the potential effect of a ban on Saturday Night Specials is very difficult to gage. Since very small weapons are prohibited, at least the problem of concealability is reduced.

#### CUT OFF HANDGUNS TO ILLEGAL PURCHASERS

The second step in the proposal—the first having been the ban on Saturday Night Specials—would serve to cut off the flow of handguns to purchasers who cannot legally possess handguns. It is important to remember that these added restrictions apply generally only to sale of handguns by dealers. Restrictions on private handgun transactions are limited to Saturday Night Specials and transactions by persons who purchase handguns with intent to resell them.

The 1968 act prohibits sales by dealers to persons whose possession would be illegal under State law or published local ordinance applicable at the place of sale, delivery or other disposition—that's a quote. But despite that prohibition, many cities which have strict gun laws cannot make those laws work because gun stores in towns beyond the city limits sell handguns to city residents in total disregard of the city's laws. The 1968 provision prohibiting such sales has not been enforced. The administration proposal—which is what I am now setting forth—is designed to make that provision more enforceable by requiring certain steps to be taken by dealers before selling handguns.

Under the 1968 act dealers are required to obtain and file a written statement by a mail-order purchaser listing his identity and affirming that he is old enough and otherwise qualifies to own a handgun. But the 1968 act does not require any more effort by dealers to determine whether in fact a purchaser can legally own a handgun. Under the administration proposal licensed handgun dealers would be required to take a series of steps to verify that the purchaser is legally entitled to possess a handgun. A dealer therefore could not sell to anyone who does not appear personally at the dealer's place of business. Mail-order sales and purchases by strawmen who intend to sell or transfer handguns to third parties are restricted in order to insure that the identification procedures will not be circumvented.

At the dealer's office the buyer would have to fill out a form stating his name, his age, his residence, and the place where the handgun will be kept. This latter provision is to aid dealers in verifying that the ultimate disposition of the handgun, its possession in the place where it is actually to be possessed, is lawful. In addition, the buyer would have to state that he is not among the disqualified groups, for example, that he is not a former felon, or presently charged with a felony; that he is not a fugitive from justice or a user of various types of drugs; that he is not an unlawful alien. The purchaser would be required to state that he does not intend to transfer the weapon to a person barred by any law from having the gun and that receipt of the gun by him will not violate any law applicable at the place where he intends to keep the handgun.

In order to facilitate further checking, the buyer would be required to supply the name of the chief law enforcement officer in the locality where he resides and in the place where the gun is to be

kept and would be required to attach a copy of a permit, if a permit is required under local law, at the place where the gun is to be kept.

The purchaser would also be required to provide adequate identification in order to establish that he is who he says he is, and that he lives where he says he lives.

#### WAITING PERIOD OF UP TO 14 DAYS

The verification procedures required of the dealer require a waiting period of up to 14 days before the handgun may be turned over. The dealer would be required to check, through the local police—who would run an FBI name check on the purchaser—to establish whether he has a record of felony convictions which would disqualify him from purchasing a handgun. When the dealer receives from local police the results of the criminal records check and a statement that the purchaser may possess a handgun in the locality where he intends to keep the weapon, he may complete the transaction provided that he has no reason to believe the purchaser contemplates an unlawful sale to a third party. If local police fail to respond within 14 days, the handgun may be delivered. I would hope and expect that local police would give full cooperation in this effort.

As in existing law, the records of handgun transactions are to be kept by the dealer. There would be no central registry.

The administration's proposal also contains two new criminal provisions designed to aid in the enforcement of Federal and local handgun control laws. The first prohibits shipping handguns into or through a locality where the shipment would violate local law. This provision is similar to various other provisions in the Federal criminal code and is designed to aid local law enforcement.

The second new provision is one of particular importance. One recent study has shown that in a random sampling of handgun purchases some 2 to 7 percent involved apparent violations of the law. Yet when multiple purchases by a single buyer were audited, the rate of apparent violations reached 58 percent. The Department of the Treasury has recently promulgated regulations requiring dealers to report multiple sales. This should provide an important law enforcement tool in tracing illegal handgun purchasers. The proposal that we are now making goes further. It would outlaw the sale of two or more handguns to one individual within 1 month. Only in rare instances is there any sound reason for the purchase of a large number of handguns. Exceptions would be made according to regulations established by the Secretary of the Treasury to allow for multiple sales and purchases for security agencies, through estate sales, to or from collectors and in similar special situations.

#### TIGHTEN RESTRICTIONS ON DEALER'S LICENSE

The third major aspect of the administration proposal involves the tightening of various aspects of existing law including restrictions on granting dealers' licenses.

Part of the problem in the present proliferation of handguns is the ease by which one can become a dealer. The current dealer's license fee is \$10. The restrictions are practically nonexistent. The likelihood of inspection, given the 150,000 existing dealers, is mini-

mal. Many of these dealers wish simply to sell ammunition as a service to their customers. Others serve hunters and marksmen, and their chief business interest is in long guns. Yet, there is only one class of license. The small grocery store for its \$10 fee may sell all varieties of guns and ammunition. The revenue raised by these fees does not come near to covering the administrative costs nor the costs of adequate inspection. Current law does not even require that the licensee really be in the business of buying and selling guns. The more persons who hold dealer's licenses the more difficult it is to make routine checks of their sales records to determine whether they are complying with the law.

The 1968 Act was never intended, I think, to be a voluntary licensing system for anyone willing to pay the price for the privilege of purchasing weapons from persons in another State by calling himself a dealer. It was designed to require certain conduct by persons in the business of buying and selling handguns, and it was intended as a strict limitation of interstate sales. The Treasury Department advocated a change in the requirements for obtaining a dealer's license so that only a bona fide dealer can obtain one and these changes are incorporated in the proposals we are making.

#### VARIOUS CLASSES OF DEALER LICENSES

The proposals we are making would establish various classes of licenses and fees, ranging up to \$500. The Secretary of the Treasury, prior to issuing a license, would determine the bona fide nature of the business, its capitalization, the owner's business experience and other relevant factors in order to establish that the licensee is really in the gun business. These restrictions are similar to those already in force with regard to alcoholic beverages. It is hoped that these provisions would enable the Bureau of Alcohol, Tobacco and Firearms to keep a closer watch on firearms dealers, particularly those who obtain licenses to deal in handguns.

In order to regulate dealers more effectively, we propose that the Secretary should be given wider enforcement powers. At present he is limited to revoking a license. Under the proposals we are making, a civil penalty of up to \$10,000 would be available depending on the gravity of the violation. Of course, the dealer restrictions and penalties would also provide for review of the administrative determinations so that arbitrary action may be avoided or corrected.

In addition to tightening dealership restrictions, the proposals we are making would alleviate a problem in enforcing the criminal provisions of the current law. The 1968 Act made it unlawful for certain persons to receive, possess, or transport any firearm "in commerce or affecting commerce". That provision was construed by the Supreme Court in the *Bass* case to require proof that, in each case, the illegal possession had some nexus with interstate commerce. In practice this means, for example, prosecutors who catch a convicted felon carrying a weapon must prove that he carried the weapon interstate before they can get a conviction. The consequence of this interpretation has been to greatly weaken the effectiveness of the law.



And the only resolution to this problem—since it is a problem of an interpretation of the meaning of a law—is the legislative one. Our proposal omits the language found to be ambiguous and substitutes a congressional finding that possession or receipt of firearms by the prohibited classes constitutes itself a burden on commerce in general, thus obviating the need to establish the burden in each case. We believe that the rising rate of gun crime itself coupled with the potential danger involved in gun possession by persons within each of the proscribed classes more than justifies such a congressional finding. A similar finding adopted with the existing loansharking law provided a basis for upholding the constitutionality of the law in the Supreme Court.

The administration has also submitted an amendment to Senate bill 1, the criminal code reform bill, which would impose a mandatory sentence upon persons convicted of using a dangerous weapon—including a handgun—in the commission of a crime. In the administration's gun control proposal there is also a change in the mandatory minimum provisions of current law. This provision is merely designed to strengthen current provisions pending the passage of a complete criminal code reform package.

#### ELIMINATE PROBATION OR SUSPENDED SENTENCES

Current Federal law does impose a mandatory minimum sentence for Federal felonies committed with a gun. The mandatory minimum term is set for 1 year for first offenses and 2 years for repeat offenses. The court, however, is given the discretion to suspend sentence altogether, or to put the defendant on probation rather than send him to prison if the defendant is a first offender. Pending the passage of S. 1, the administration's handgun proposals would eliminate the possibility of probation or suspended sentence for first offenders convicted of using a gun in the commission of a crime.

Now, the package which I have described is in substance the attempt to implement the administration's stated proposals for handgun control. The administration's proposals, we think, have the potential of saving lives and making the streets of our cities and towns a little more habitable. The proposals concentrate on illegal commerce in handguns, commerce which has stymied local and State efforts to regulate. And it centers its new enforcement efforts on 10 large metropolitan areas where the problem of handgun violation and violence has reached crisis proportions.

I do recognize that there are a number of bills before the Congress dealing with this subject. We recognize that they differ in detail and substance, but many of them go in the same direction. We believe that the position taken by the President in his crime message is a sound and promising one, and that it is an important step which recognizes the problems to be solved and the interests to be protected.

Let me say that I recognize that bills incorporating these proposals may have modifications. I think the important thing to be watched is whether the proposals in effect do build upon the 1968 act, and make it more effective.

It is quite possible that if there is no legislation, that the Treasury Department might, through its own rulemaking powers, make the present law more effective. It is also possible that appropriations and a strengthening of enforcement in the 10 major cities will make the present law more effective.

The combination of the ban on "Saturday Night Specials," and the effort to make the present law more effective, to give it reality, is a very serious effort to provide Federal support in what is chiefly the general commerce area, so that local law enforcement which exists throughout the country, and particularly in urban areas, can be more effective.

I do have to say as a personal matter that, if I were to assume that these steps cannot be taken, then I would wish at least as a citizen to go back to my advocacy of a regional approach because the regional approach does reach into those areas where our country is suffering and where, because of the absence of effective enforcement based on the 1968 model, there has been inadequate help for local law enforcement to proceed.

But I very much hope that the kinds of proposals which we have suggested, and which are intended to implement the position taken by the President in his crime message, will find sufficient favor, and that this or similar bills will find passage into new legislation.

Senator BAYH. Thank you, Mr. Attorney General.

Your summarizing remarks express thoughts similar to mine, of all of us who are concerned about the alarming increase in crime. This morning's paper reported an 18 percent increase, the last report was 17 percent. We have to recognize there is no easy panacea, no simple solution to this problem, but that we have to approach it from as many different angles as we possibly can; and hopefully we can ultimately suffocate it, or at least cause a decline in criminal activity.

Could you give us your thoughts generally about the present mechanism for handling the enforcement of firearms statutes. Do you feel that the Treasury Department has been doing a credible job? Has enforcement in the Alcohol, Tobacco and Firearms Division been an impediment to doing the kind of job that needs to be done?

#### KEEP ENFORCEMENT WITH TREASURY DEPARTMENT

Mr. LEVI. I think it is an inadequate force in terms of size, and that's why the proposal suggests a very great increase. And I suppose I might think that the Treasury has been rather conservative, and perhaps they should be, in their interpretation of the 1968 law. But my belief is that the direction of keeping it with the Treasury Department is the way to go, and while we did consider at one time adding the Federal Bureau of Investigation in some shared way to the enforcement, on the whole I do not think that is a desirable idea.

Senator BAYH. I was more concerned about the structure, the departmental structure. Do you feel the job can be appropriately done, organizationwise, within Treasury? There is no need to move it to Justice in order to do the job.

Mr. LEVI. That is right.



Senator BAYH. I have here a letter from Mr. Rex Davis from the ATF Bureau at Treasury,<sup>1</sup> dated the 16th of June—which is 3 days before the President's crime message—which was the foundation for the legislation you are bringing to us today. In the letter Mr. Davis pointed out that his fiscal year 1976 budget request of \$52,873,000 and 2,003 personnel, which is the official request, is somewhat lower than the candid appraisal which I asked him to submit to us, which was \$70,118,000 and 2,284. So, somewhere between Mr. Davis and the submission of the President's budget to Congress there was a rather substantial cutback in the area of firearms law enforcement.

You suggest that the policy is now going to be a new one, and you are prepared to go even beyond the request suggested by Mr. Davis.

Mr. LEVI. Well, I really don't have the authority to suggest anything, except to say you have a useful benchmark because of the date of that letter.

Senator BAYH. I'm glad the dates are not reversed. What is the total budget request that you think will be needed?

Mr. LEVI. I'm unable to do that.

Senator BAYH. You would increase inspectors by 500?

Mr. LEVI. By 500, and that is the administration decision.

Senator BAYH. And that is going to be emphasized, that inspection program will be directed at the 10 highest crime areas.

Mr. LEVI. Yes.

Senator BAYH. What type of endeavors would these agents undertake, the inspection of the licensees, this kind of thing?

#### ADDITIONAL AGENTS USED AT HIGH CRIME AREAS

Mr. LEVI. The purpose would be to make sure that those areas are protected from the intrusion of guns brought in in violation of the Federal control structure. It would mean making sure that we do not have people operating as dealers who are not licensed as dealers. It would mean making sure that dealers are in fact taking the steps that are required, so the sales are not being made in these areas in such a way that the dealer should have known the sales were illegal.

Our belief is that, unfortunately, the crime rate is sufficiently high, and the incidence of use of guns is sufficiently high that there will be a great many clues for these agents to work from. By starting from the unfortunate end results of the misuse of the guns, one will be able to go backward and stop the kind of illegal interstate commerce which is always referred to as coming from other States and which it is said made it impossible for cities and States, even with the toughest laws, to provide any protection. So, we think that will work. It may not work, but we think it will.

Senator BAYH. Let me just say as one member of this subcommittee, who happens to be the chairman, and I think I speak for my colleague from Nebraska who is the Judiciary Committee's ranking Republican member, although we might disagree on the degree to which effective firearms control can effect incidents of crime—and I am sure Senator Kennedy would concur as well—we are prepared to write that check for whatever you feel is necessary for the inspectors and enforcers.

<sup>1</sup> See *supra*, pp. 242–243.

If I might be the devil's advocate a bit here—I think the priority of zeroing in on the 10 major areas makes a lot of sense—but what makes me wonder is the impact of the 500 additional inspectors, which will be 50 per area. We are dealing with acts that are illegal in the jurisdictions currently, so that the whole law enforcement mechanism, every law enforcement officer in the New York Police Force, really, is charged with prohibiting this kind of activity.

Now, how in the world do we get at the fact that one State supplies more illegal guns to New York than all the suppliers from New York State alone; and the fact that 92 percent of the crime handguns in Detroit were from out of State. When all these local officials are unable to deal with that situation will some new agents really do the job? How do you deal with it, nip it at the other end; could we do it more efficiently that way?

Mr. LEVI. You mean by prohibiting the manufacture?

#### STRIKE AT ORIGINAL SOURCE OF SUPPLY

Senator BAYH. Well, finding the source. It seems to me if we found the source in the State of origin, which is outside the 10 major areas where the strike forces are going to be assigned, we have a better chance to deal with it than we have once the handguns reach the streets.

Mr. LEVI. Well, except for the Saturday Night Special, the scheme does not prohibit the manufacture of handguns. If one follows the theory of the 1968 Act, the licensing of dealers is sufficient to provide protection against illegal sales, and there is no need for further registration or licensing.

If those assumptions are correct, and if a careful dealer can avoid the illegal sales which result in the kind of figures which I have already given—and which indicate that of the number of guns unlawfully sold an enormously high percentage were sold by dealers and should not have been sold if dealers had been living up to the requirements by the 1968 law imposed upon them—if that is true, then with the really rather modest steps imposed here, and by checking back from the 10 largest cities, one does come to, we think, the dealers which should not have made these sales. And that kind of tightening up of enforcement, or just the regular enforcement of the 1968 law as amended, we think, does go as much as we can to the source.

We think in a rather dark picture there is this good sign—the enforcement has been so poor that anything of this kind ought to be a considerable improvement. And if it is a considerable improvement it will back up those large cities that are terribly worried about this problem and have their own laws which should be effective.

Senator BAYH. What about the provision in my bill, S. 1880, which would require dealers and other licensees to report thefts? Right now there is no requirement that these handgun thefts be reported to anyone.

Mr. LEVI. I will watch what happens to the proposal with the greatest of interest.

Senator BAYH. Would you support it, as well as watch it?

Mr. LEVI. Well, that depends on what is required in order to get an effective law passed.

I think there are a few things that are more important to reducing the level of crime than getting a law which is sufficiently effective to reduce the illegal use of handguns. There are very few things that are that important, and therefore my whole posture on this has been one of being willing to compromise. That seems to me extremely important.

Senator BAYH. Well, I think we can compromise ourselves right out of the ball park!

Mr. LEVI. That is correct.

Mr. BAYH. You are aware of that. Let me ask you to come back to this, as someone who has studied the situation more than anybody in the administration, I am sure, and has the sobering responsibility of dealing with the crime problem.

#### REQUIRE DEALERS' THEFT REPORTS

Isn't it, looking at the whole gamut of suggestions you have made, sir, relative to making a positive contribution toward effective firearms control, doesn't requiring dealers to report thefts make sense?

Mr. LEVI. I should think so. As a matter of fact, I think the Treasury could require it now. I am certainly cognizant that, if you don't require them to do that, you have a problem in law enforcement when you find guns in the hands of people that should not have them.

Senator BAYH. And particularly when there is a thriving illegal market in stolen weapons, which criminals prefer because there is no bill of sale that relates the seller to the purchaser; they are not traceable. It would seem to me if we are really concerned about effective enforcement, that we would have to deal with this aspect of the problem.

Mr. LEVI. I agree with you, Senator. I am reluctant to approach anything in this area with any sense of euphoria because I know when I first suggested a regional control the greatest criticism came from those who thought it did not go far enough. And I know that these rather mild proposals will also be criticized because they do not go far enough. But the question is, what will go at all?

Senator BAYH. Yes; well, here again, you would feel that in doing your job—doing what we are trying to do collectively—that requiring the reporting of stolen firearms would be an important step.

Mr. LEVI. Well, I really think so, and I don't understand why there should be objection to it. As I indicated, it seems to me it is something the Treasury Department could require in any event.

Senator BAYH. But they have not.

Mr. LEVI. Yes; I am puzzled about that, but maybe it's a good thing Treasury doesn't always do all the things it could do.

Senator BAYH. I hate to keep coming back to this, but if I were at Treasury reading this record, I would have to say the Attorney General of the United States has come almost to the brink of saying, "Yes, that would help" but then he backed away and said, "But \* \* \*".

I want to know, I'm not in law enforcement, I'm in lawmaking and don't do as good a job at that as I would like to in this critical area. Is it going to be helpful? Can I tell my colleagues in an argu-



ing step toward better firearms legislation that it would be helpful to require the reporting of stolen weapons?

Mr. LEVI. Well, the answer to that is very simple, the answer is "yes."

#### NEW DEFINITION TO REDUCE NUMBER OF DEALERS

Senator BAYH. Let's change the subject, then.

One of the measures that you request, which seems to make sense, is to limit the number of dealer licenses. Now, the reason why I was wondering why we were having difficulty coming to grips with whether it is good or bad to require the reporting of stolen weapons—I understand your reluctance to go so far we can't get anything—but it seems to me there ought to be a general recognition of this as a positive contribution. However, where we are really going to get flak is from the redefinition of who is eligible for a license.

The Treasury informs my staff that the Ford proposals would reduce licenses from 150,000 to perhaps 40,000. Have you assessed the impact of the new definition of "dealer" as far as numbers of licenses involved?

Mr. LEVI. No; I haven't. I have been told it would reduce the numbers, and it will divide the kinds of dealers so that the Treasury will know what business the dealer is in fact engaged in. But the only thing I know is their estimate of the numbers.

Senator BAYH. Do you have a definition, sir, of how these categories of dealers are described and distinguished, one from the other; do you have that with you?

Mr. LEVI. There are four main categories, as I recall.

Senator BAYH. I think that it is an area where we can make an important contribution, but it's also going to be one that will cause a significant amount of heat, from my past experiences relevant to related issues.

You also suggest, am I accurate, to limit multiple handgun sales; two guns per month, with exceptions provided? As long as we are providing exceptions, could we limit to one gun per year, or two guns per year, and then let the exceptions be considered, instead of saying anybody is free to go out and buy 24 handguns a year?

Mr. LEVI. I think the purpose is to make sure that where under present law it would be unlawful for a person to have a gun it would be more difficult under the proposal to get one, and that there is some way of knowing when a purchaser really is in the business of reselling. I wouldn't want to go further than that.

If one wants to outlaw guns, I think it's better to say so, and this doesn't do that.

Senator BAYH. Well, let me ask you, sir. I receive a great number of complaints from my constituents who are in the firearms business, the legitimate firearms business. This is one of the things we get involved in when we do what we think is right. I don't criticize them for having different opinions. But I have to say, one of the concerns that they have expressed—which is shared by me—regards present regulations and the present firearms law which requires them to compile a significant amount of information. For example, when somebody buys a firearm, we now require them to collect and to give—the seller and the buyer—a great deal of information. From

everything that I have been able to assess and everything my constituents tell me, that information for all intents and purposes just sits there in the cupboard. Nothing is done with it. It's just bureaucratic redtape!

Why is it that we pursue a policy—creating what may be a minor problem to others, but to them it becomes quite an administrative problem—if we are not going to use the information that is gathered?

Mr. LEVI. Well, it is quite clear that is not the intention of the proposal that we make. And if the suggestion is, why don't we try that out and not have any legislation at all, I suppose that can be considered. But it seems to me that would be insufficient.

Senator BAYH. You are suggesting that we do have a 14-day waiting period, is that accurate?

Mr. LEVI. Up to a 14-day period.

Senator BAYH. Up to a 14-day waiting period. I had not had a chance to read the entire measure as carefully as I would like. Does this give a responsibility to the dealer to get a report, or does it say that he should submit the information to the chief local law enforcement officer, and then if nothing is forwarded back to the dealer, that after 14 days he can go ahead and consummate the sale.

Mr. LEVI. Yes.

#### POTENTIAL LOOPHOLE BY NOT REQUIRING REPORT

Senator BAYH. Now I am concerned again.

If we really want to deal with this problem—and I think we do—you and your staff and my staff will need to take a careful look at this. But you have a potential loophole here.

Currently, the law requires a lot of information when a person buys a gun; but usually it is filed in a cupboard in the basement and nothing is done with this information until after the fact. For example, when you have a Bremer who shoots George Wallace only then it is traced to determine source and other factors. There is nothing done with all that information in an affirmative sense; it's all used defensively after the fact.

Isn't there something we can do, to require the chief law enforcement agency to report? We have a great deal of information in the FBI computers. Most of our State Police and large metropolitan areas have a sophisticated retrieval system to make information available quickly. Why don't we nail that down and say, not only do you have to present this information, but we give the responsibility to the law enforcement agencies of using that information, making a check on it, and then reporting either affirmatively or negatively back to the dealer?

Mr. LEVI. Well, I think the whole direction is to keep it at a local level. I think there are various values in doing that, that is, in not centralizing it.

Senator BAYH. May I ask why?

Mr. LEVI. Whether one could develop some way of requiring the local police chief to respond, I don't know. Our assumption is that he will respond. It will be possible to find out whether they are responding or not, and to—



Senator BAYH. The worst thing that can happen in the political process, which you and I are both part of, is to give the impression that we are accomplishing things, either by Cabinet officials, or Senators, or Congressmen saying and doing things, proposing legislation; and after everything is sorted out nothing is accomplished. That's more of the same you-know-what over and over again!

I know this isn't the proposal you intend to make, but let's look at it from the hard fact of reality that we have to. We must look at the ultimate consequences. Let's take my own community of Terre Haute, Indiana. We have a penitentiary right on the outskirts of town. All right. Someone leaves that penitentiary. He does not come into Terre Haute, which is one of the largest cities of our State, but goes to a small rural Indiana town. He goes into a hardware store, or to a dealer who under your new license system will meet the standards, and purchases a firearm. That information is then given to the country sheriff.

Mr. LEVI. Well, it is probably an illegal purchase, if I understand, if it's illegal where he is going to keep it.

Senator BAYH. Well, that's obvious. But the question is, what good is a 14-day cooling period unless we find out it's illegal? That's the whole purpose.

Mr. LEVI. Certainly. We assume it will be useful. And if there are other proposals which will make certain that it is useful, I certainly think they ought to be considered.

Senator BAYH. Will you consider them, please?

The country sheriff down in southern Indiana goes through his files, he sees nothing on that fellow from up north.

Mr. LEVI. Yes.

#### WAITING PERIOD MUST BE MEANINGFUL

Senator BAYH. Or even in a big city in Indiana, a big city in New York, or wherever it may be. And yet, this fellow's name is in the FBI files as having just been released from a Federal penitentiary. It may also be in the Indiana State Police files, they do a credible job. And unless we are willing to tie in the legislation with that information that is available, the 14-day waiting period is going to be useless.

Mr. LEVI. Well, there is no doubt that an FBI name check would be very helpful.

Senator BAYH. Would you support such an effort?

Mr. LEVI. Well, in one form or another it's there now, and we will have to consider whether to go beyond that. We certainly will consider that.

Senator BAYH. I surely hope you will, Mr. Attorney General. I only ask these questions because I think your support is very helpful. And less than unequivocal support for something that is as directly related to doing the job of law enforcement is not as helpful. You have the FBI with considerable information—the particular instance that I used, involved a Federal inmate, a Federal felon.

Now, there are many other instances when you can also crank in information about State felons and this kind of thing, but I think if we have a waiting period—and that is important—that we make

that waiting period meaningful. It's going to cause enough flak from people who don't want anything to interfere with the normal commerce. And it's going to cause, I think, justifiable flak if we don't use the kind of information that we have in all its proportion, and really accomplish what we are after.

Mr. LEVI. Well, the only purpose of suggesting a waiting period is that it should be meaningful; and of course, we would want to consider anything that would make it more meaningful, provided that it is not so offensive that there is no opportunity at all of getting it accepted.

Senator BAYH. Well, we don't want to make it offensive, but it's necessary to prevent purchases by criminals. Let's have our staff work on that because I see that as a significant loophole there; and together, I think, we ought to be able to close it.

Sir, I note that regarding the Saturday Night Special we—the Ford and Bayh bills—have a lot in common and are almost identical in purposes and definitions.

And I might say in passing, to show that sometimes we have unexpected results from legislative efforts that fail. It is to the credit of two of the major firearms producers in this country that when either coincidentally, or when confronted with the Senate passage of the Saturday Night Special ban, which required a hammer drop cap for safety; that the next year's model of the kind of handgun that would have violated the safety drop test, did indeed develop weapons that would have passed the test.

Here again, I am looking for loopholes. We have a Federal law now that says it is illegal to own a sawed-off shotgun; is that accurate?

Mr. GAINER. Without payment of the \$200 tax, yes.

Senator BAYH. Which in essence says that in most instances it's illegal.

Mr. GAINER. That's correct.

Senator BAYH. Have you given any thought, sir, to also making it illegal to have a sawed-off hand weapon? What's going on right now, a company in Florida and others elsewhere, are bringing them in by the thousands, and then they are sawing off the barrels.

Mr. GAINER. There is a prohibition in the bill against modification of a handgun so that, as modified, it would fail to meet the criteria set forth to distinguish the Saturday Night Special.

Senator BAYH. I salute you for that. It's a substantial loophole plugged, if we really provide that you can't buy and sell. I appreciate very much the fact that you have thought of that.

#### LICENSING AND REGISTRATION QUESTION

Could you give us your thoughts, Mr. Attorney General, on the licensing and registration question? Some of our colleagues feel very strongly that if we are really going to control crime and the use of firearms in the commission of crime, that firearms must be registered and their owners licensed. Could you give us your thoughts on this, please?

Mr. LEVI. I think the main problem is, one begins with a recognition that extensive legislative licensing and registration requirements

are frowned upon. But I think one also has to appreciate that as one goes from the sale from the dealer to the purchaser to the resale to another purchaser, it is at that point that the registration and licensing presumably would be more effective. And yet, my guess is that it would be quite ineffective because it is at the point that the gun starts being traded that you get quite a black market. One would have, I think, very much the same kind of enforcement problems we now have.

My guess is that if we can make the dealer licensing system in the 1968 act work, then, with increased enforcement, we will be able to reach what probably could have been reached by another road, by going through registration and licensing, but without requiring everybody to be on a list. That kind of thing alarms many people.

So, as I said in my statement, the reason we did not go for registration and licensing was that I thought that the values which people saw in that kind of a procedure might be illusory. My guess is that it would not increase the effectiveness of enforcement that much.

MR. GAINER. I might point out, Senator, that some of the benefits perceived in a registration system and in a licensing system can be achieved by other means. Those means were employed in the bill as you see it before you.

Registration primarily is of value to law enforcement in providing a means of tracing weapons that have been used in criminal offenses. That can be done today in large measure through the utilization of the dealer records that are kept, as you pointed out, by the licensed Federal dealers.

A licensing system is in effect a prescreening device to eliminate from possession of handguns those individuals who are most apt, or who are perceived to be most apt, to misuse them for criminal purposes.

The sort of prescreening prescribed in this bill—the opportunity to prescreen that is given to the local police authorities through the notice provisions and through the 14-day waiting period—should accomplish the same result. It would enable them to check their own records and to obtain an FBI name check of the individual to see if he has a felony conviction record in another jurisdiction, and in large measure could achieve the same sort of prescreening that licensing might also attempt to achieve.

SENATOR BAYH. If we tighten it down, I think that can go a long way to accomplishing just what you say. If we don't, I tell you, the waiting period has a loophole big enough to drive a truckload of guns through.

MR. GAINER. We had contemplated different alternatives in that area—getting back to your question as to whether it might be advisable to require the police check rather than to provide an opportunity for the local police to undertake the check. It was ultimately decided that, since what we are proposing is Federal legislation—legislation that should be designed if possible to help the States and localities to enforce their own laws—that this approach might provide such an opportunity without putting the Federal Government in the position of ordering local police to do something that the



Federal Government may not be in a position effectively to order them to do.

Most local police are quite sensitive to the problem of criminal misuse of handguns, and, given the opportunity to check the records of individuals who are about to buy handguns, would very willingly undertake whatever is necessary to assure that in their jurisdiction, at least, they are not going to have exfelons buying handguns from Federal dealers.

Mr. LEVI. I think there should be an alternative to check by the police chief, and I think we ought to look into that.

Senator BAYH. I really hope we will.

You mentioned "notice" as well as the waiting period; has that escaped me? What is the "notice" provision?

#### NOTICE PROVISION DURING WAITING PERIOD

Mr. GAINER. This is the provision that requires the Federal dealer in selling a handgun—not a long gun but a handgun—to send information supplied by the potential buyer to the local police in the area where the individual resides, and, if he intends to keep the handgun in a summer cottage or some place else, to the local police authorities where he intends to keep the weapon. This provides them with a form of detailed notice as to the incipient purchase.

Senator BAYH. That is really part of the waiting period.

Mr. LEVI. That is correct.

Senator BAYH. I have not been an advocate of licensing and registration myself, basically because of my concern that we have a better chance of being successful if we direct our efforts where we have the greatest chance of receiving results in curbing crime. Thus, I have zeroed in on hand weapons—as I understand your proposal has—and on the criminals who use them.

Could you give us a breakdown, in view of the concern about licensing and registration of all firearms, of weapons used in the commission of crimes nationwide? How many are used in the street—armed robbery and this type of crime? How many of those crimes involved hand weapons, and how many of them involve shotguns and rifles or long guns?

#### TYPES OF WEAPONS INVOLVED IN CRIME

Mr. LEVI. Roughly, it is found that handguns are used in about one-third of the robberies; and in a little over one-fifth of the aggravated assaults. About one out of four of the aggravated assaults is committed with a firearm, and most of these are committed with handguns; a very high percentage of them, one in five of the total, is committed with a handgun.

As to the robberies, about one-third of the robberies involve the use of handguns per se, very few robberies are committed with shotguns and rifles; those are not the weapons of choice for those engaging in criminal activities.

Senator BAYH. I have heard the figure less than 5 or 10 percent of that kind of crime involved long-barrel weapons for obvious reasons, the visibility.

Mr. LEVI. Less than 5 percent.

Senator BAYH. Now, when you talk about aggravated assault you get into my next question. What types of crimes are committed with long-barrel weapon generally?

But let me first summarize what at least I have been led to believe is accurate, so that I don't waste your time. It has been brought to our attention that a large percentage of crimes involving long-barrel weapons are crimes that are committed between people who know one another, husband and wife, lovers, neighbors, business partners, where they flare up and suddenly resort to violence and passion.

One of the concerns I have about a general licensing scheme, and one of the reasons I have never supported this approach, is whether there is any way one can license and screen out those who might in the application for a long-barrel weapon be likely to succumb to a fit of passion, go to the gun cabinet and shoot a faithless spouse, let us say?

Mr. GAINER. If there is such a method, we haven't divined it.

Mr. LEVI. Well, I think there is such a method. If they did it once before you would probably know.

Senator BAYH. Well, what are you suggesting, Mr. Attorney General?

Mr. LEVI. I think that would be covered.

Mr. GAINER. I think he is referring to long guns.

Mr. LEVI. Well, it would be possession of a firearm by a felon, and that would be illegal.

Senator BAYH. So, if you kill your first wife, we are not going to give you a chance to kill her a second time with a firearm.

Mr. LEVI. It seems to me it's sort of a legal, suitable position to say that a known felon should not be allowed to have a gun.

Senator BAYH. Well, maybe we'd better move on.

Let me ask you in view of the seemingly increased movement of a large number of firearms across State lines, have you been able to determine whether there is an organized crime effort involved?

Mr. LEVI. I have not. I don't know if my associates have. The U.S. attorneys have told me that they have no doubt that there is a very direct relationship, so I suppose their answer would be "Yes." And that, in fact, is one of the reasons that I felt in this kind of increased enforcement we are suggesting we can make considerable progress.

#### MANDATORY SENTENCE ON FIRST OFFENCE

Senator BAYH. Let me move into another area of President Ford's message. The mandatory sentence would make it impossible for the judge to have any discretion on a first offense, if the crime is committed with a hand weapon; is that accurate?

Mr. LEVI. Yes.

Senator BAYH. Regardless of the age of the individual in question?

Mr. LEVI. I think that can very well be said to be a defect. It is possible to have parole. But it does not follow the provisions which were set forth in the President's crime message, which allowed a limited discretion to the judge. I think what we are saying is that it is important—even if there are to be some exceptions—that the



direction be toward a mandatory penitentiary sentence. But I, myself, would find it hard to say there shouldn't be some discretionary exceptions.

Senator BAYH. Well, might I invite your attention, sir, to an amendment that was proposed by myself and my colleague from Georgia, Senator Talmadge, which would permit discretion on the first offense, but the judge would in writing state the basis for the use of that discretion; but then would apply the sentence mandatorily the second time.

[Testimony continues on p. —.]

[EXHIBIT No. 15]

[Excerpt from the Congressional Record, Apr. 3, 1973]

#### MANDATORY SENTENCES FOR FIREARMS AND NARCOTICS VIOLATORS

Mr. BAYH. I have been very much concerned about this matter, and as chairman of the Subcommittee on Juvenile Delinquency I have done as much as anyone to try to reform our laws to provide for effective rehabilitation. For that reason we have excluded juveniles and addicts from this act because we hope to rehabilitate them. But for someone out there selling hard heroin or morphine—whether the amount is 2,835 one hundred milligram bags of 1-percent heroin or 1,418 bags of 2-percent heroin on the street—I have little compassion for that kind of person. Therefore, I come down on the side of teaching that fellow a lesson the only way we can.

Our amendment will significantly strengthen the hand of our law enforcement officials in dealing with what are in my view two of the most dangerous sorts of criminals in our society: those who use firearms in the commission of crimes, and those who are the purveyors of hard drugs. These serious crimes deserve and demand severe punishment. This amendment requires very severe punishment indeed.

When Senator TALMADGE first suggested that provisions dealing with these two pressing problems be added to this bill, I stated that I would support such legislation if it was effectively aimed at serious offenders. During the last few days, I have worked closely with Senator TALMADGE, and the amendment we offer today is intended to impose on hardened criminals penalties of the severity that their crimes warrant, while at the same time taking care not to mandate unnecessarily long terms for those for whom we can realistically hold out some hope of rehabilitation. We have drafted this amendment as precisely as we could, despite the time pressures and the lack of hearings and committee consideration. We think it urgent and proper to deal with those felons who use firearms to rob or to rape, and with those high level operators who, while not addicts themselves, push heroin and morphine on our citizens. These criminals have shown themselves by their offenses to be beyond the normal hope we hold out for rehabilitation in our society. Moreover, these criminals are the sort of cold, calculating characters who can be deterred by the specter of sure, swift, and severe punishment. The only solution for those who are not deterred and who commit these crimes is to put them away, and to put them away for a long time. This is what our amendment does.

With respect to those who use firearms to commit felonies, or who unlawfully carry firearms while committing a felony which threatens life or property, our amendment imposes, in addition to the penalties already provided by law, a minimum sentence of 5 to 15 years for the first offense, and 10 to 30 years for second offense. The imposition of the additional sentence on the first offender would be left up to the trial judge; but if he failed to impose this additional sentence, he would have to state his reasons publicly. For the second offense, the judge would have not such discretion; upon conviction, a mandatory minimum sentence of 10 to 30 years, would have to be imposed. These minimum sentences—which are, of course, over and above the penalties which exist in present law—could not be suspended, nor could probation be granted.

The United States leads all other Western countries in the use of firearms in connection with serious crimes. I have long been an advocate in this Chamber of controls on the distribution of the small, easily concealable "Saturday Night

Specials" which are favored by criminals. I believe that carefully drawn legislation, like that which passed the Senate last year, would make a significant contribution to safe streets by taking weapons away from criminals. I also believe that penalties of the severity in this amendment are appropriate for those who use such firearms in highly dangerous illegal activity.

There is no criminal element in this country which is more dangerous and despicable than those who are the purveyors of heroin to our young people. Our amendment is designed to deal with these individuals very severely, as they should be dealt with. It is not aimed at addicts who are already hooked and who are trying to support their habit. For such people, laws already on the books and adequate treatment programs—together with capture and imprisonment of big-time dealers—offer the best hope. Our amendment is aimed at those who have hooked others and not themselves.

By the joint effort of the Senator from Georgia and myself, this amendment has been written to reach those who are the backbone of heroin trade and distribution in this country. Persons convicted of manufacturing, distributing or dispensing heroin or morphine in amounts equal to or in excess of one-tenth of an ounce of pure narcotic would receive, on the first offense, a mandatory minimum sentence of 10 to 30 years. For second convictions, these pushers would get a mandatory life sentence. In neither case would the offender be eligible for probation, suspended sentence, or parole—except after serving 30 years of a life sentence. In both cases the mandatory minimum sentence would have to be imposed in addition to the sentence provided under existing law; and in both cases the additional sentence would have to be consecutive to, not concurrent with, the existing punishment.

One-tenth of an ounce of heroin or morphine may seem to be a tiny amount, Mr. President, but it is as deadly as it is small. It can and is turned into a large number of bags of heroin on the street, and is worth a handsome sum. As a measure of the seriousness of the criminal conduct it is preferable to a 4-ounce mixture requirement. The 4-ounce level, the two measures are similar in terms of the value of street heroin. But our test assures that we reach the high-level dealers who handle very pure and very valuable heroin and who might circumvent a 4-ounce mixture standard. Our test also assures that we do not bring under these very severe penalties a person with a 4-ounce mixture which contains only traces of a narcotic. Under our amendment, the volume of the material sold or manufactured would not matter; the only question would be whether it contained the equivalent of one-tenth of an ounce of pure heroin or morphine.

Any nonaddict who manufactures, distributes, or dispenses one-tenth of an ounce of heroin or morphine is, we can be confident, a high-level trafficker who is rationally and for his own profit pushing drugs. Such a person deserves no quarter.

The penalties we propose in this amendment are extraordinarily severe. I support them because the dimensions of the problem are such as to demand that we take this exceptional action. But we must not deceive ourselves into believing that harsh penalties alone will solve our problems. Even with those who can be deterred from criminal conduct, the enforcement of the law—the certainty of capture and of punishment—is more important than the length of punishment. But by making the penalties mandatory and severe for certain persistent and destructive criminals, we will be providing a solid law enforcement tool where such tools are badly needed. These provisions combined with adequate enforcement, speedy trials, prisons which rehabilitate criminals instead of perpetuating crime, treatment for addicts, sufficient jobs and equal opportunities for all our citizens, will with effort bring the law, order, and justice we all want and deserve.

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Senator BAYH. I must say, I have real problems coming to grips philosophically with the mandatory sentence on the first crack, but I don't think a person has a basic right of sticking a gun in your face and be immune from rather stern consequences.

Mr. LEVI. I think the direction of the increased seriousness in handling these cases is what we are after. I assume that some exceptions for a first offense, or where the offender is very young, are not going to impair the scheme enormously, provided one does require the

judge to make a definite finding of that sort. I must say, I don't think it is an easy matter because it is really those first offenses by youngsters using guns, which they shouldn't have, where I think a very serious reaction by society ought to be required.

[Subsequent to the hearing, the following information was received.]

[EXHIBIT No. 16]

You expressed concern that the judge would have no discretion concerning applicability of a mandatory minimum sentence for commission of an offense with a weapon under the Administration's proposal. As drafted, the provision merely makes applicable to a first offense the same type of mandatory minimum sentence which applies under existing law to a second or subsequent offense. As Mr. Gainer noted at the hearing, the Administration's separate mandatory minimum proposal, in the form of an amendment to S. 1, would permit the judge to apply a sentence other than a mandatory minimum if he found that at the time of the offense the defendant was less than eighteen years old, the defendant's mental capacity was significantly impaired, the defendant was under unusual and substantial duress, or the defendant was an accomplice who played a relatively minor role in the offense of another. The provisions also differ in that the S. 1 amendment would impose a term of parole ineligibility, while the provisions of proposed section 924(c) would not. If you would prefer to use the feature of the proposed amendment to S. 1, the amendment to section 924(c) could be amended (retaining the existing sentences rather than using S. 1 sentences) by adding the following at the end of proposed section 924(c) :

"The court may sentence the person to a shorter term of imprisonment or suspend the sentence or give the person a probationary sentence if the court finds that, at the time of the offense :

"(A) the defendant was less than eighteen years old ;

"(B) the defendant's mental capacity was significantly impaired, although not so impaired as to constitute a defense to the prosecution ;

"(C) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution ; or

"(D) the defendant was an accomplice, the conducting constituting the offense was principally the conduct of another person, and the defendant's participation was relatively minor."

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Senator BAYH. Well, I wish you would explore that leeway, which I think now is not contained in the administration's proposal.

Have you considered applying that same mandatory sentence in addition to current penalties to another kind of criminal activity that was contained in the measure of Senator Talmadge and myself, that of nonaddicted pushers of heroin? Those who don't have the monkey on their back but are trying to introduce the monkey to others.

Mr. LEVI. In some form it is in the President's general crime proposal, that dealers in certain drugs would be required to have mandatory sentences.

Senator BAYH. That's in the President's crime proposal, the first offense, second offense?

Mr. LEVI. Yes.

Senator BAYH. Which?

Mr. GAINER. It is for a first offense in trafficking in heroin, the instance you had pointed out. It would require a mandatory penalty. But the mandatory penalty would not have to be imposed if among other matters the individual was acting under substantial duress, or under some mental impairment which would perhaps be the occasion if he were an addict.



Mr. LEVI. Or youth.

Mr. GAINER. Yes, there are a total of four situations, in which the mandatory sentence would not be required; the other two are when the defendant is a youth or when he engaged in the offense only incidentally with the primary conduct being that of another. Through that technique one could reach just about the same results as you were suggesting a moment ago.

Senator BAYH. I am not making light of anyone pushing heroin, you know, but we are not going to get on top of that problem unless we deal with it as the real illness that it is for those who are hooked. We ought to turn loose all the forces of law on those who are involved in that process of hooking others.

Have you given consideration to a requirement that this type of crime, use of a firearm in the commission of a felony, or the selling of heroin or similar drugs for the purpose of addicting others be moved to the head of the docket as further evidence that these crimes are of most serious magnitude?

Mr. LEVI. Well, I guess the answer to that is, yes. It looks as though everything should be moved to the head of the docket. I am not sure in a particular area what should be moved to the head of the docket. We have considered it, but we have not provided for it.

#### JUSTICE SHOULD BE SWIFT, SURE, AND EQUITABLE

Senator BAYH. Well, I suppose it would be pretty hard to say that murdering someone with a butcher knife was less severe than shooting him with a "Saturday Night Special." If we are really concerned about sorting out most of our crimes and dealing with them as quickly as we possibly can, so that justice is sure and swift, as well as equitable, we ought to give some precedent to those particularly vile and heinous kinds of criminal activity. Can we work on that together?

Mr. LEVI. Yes. I think all I really want to say is that we have an enormous problem, particularly in the large urban areas, in moving cases along and getting things in the proper priority. I don't like to approach it just from the standpoint of a handgun.

Senator BAYH. One of the measures that is in the bill—S. 1880—that I introduced earlier deals with the alarming evidence that has been brought to our attention, that the major source of diverted drugs right now is increasingly becoming the pharmacies of this country. We ought to deal with the theft of narcotics and other dangerous drugs from pharmacies as an extension of the Federal drug laws of this country, and make that a Federal law violation.<sup>1</sup>

Have you or the administration given that particular problem any consideration?

Mr. LEVI. I'm really not prepared to answer that question. I don't know whether my colleagues are, or not.

Senator BAYH. Well, could we ask you to, please? I realize that this is opening up a broader vista of the need for Federal prosecu-

<sup>1</sup> See Appendix, p. 918.

tion, but we have a source of illegal drugs coming from such a confined area that I think we ought to give that special attention. In the past, I think it's fair to say the administration prior to this one has opposed that kind of expansion. But I would hope that now that we have a new Attorney General, that we might look at that a little differently. At least I hope you will examine it for us.

Mr. LEVI. Maybe we'll try a regional approach to it.

[Subsequent to the hearing, the following information was received.]

[EXHIBIT No. 17]

The question was raised at the hearing whether the Department of Justice would alter its opposition to legislation making it a Federal offense to steal narcotics or controlled substances from a pharmacy. As was indicated in the Department's report to the Senate Committee on the Judiciary on S. 2327 in the 93rd Congress, such legislation would place a tremendous burden on federal resources without sufficient law enforcement benefit. While it is true that the number of such thefts continues to rise, local law enforcement agencies are better equipped to respond quickly to calls for assistance in robbery and burglary cases and are more experienced in dealing with such cases. The Drug Enforcement Administration is concerned about the problem of drug thefts from pharmacies and is in the process of conducting a pilot project for pharmacy theft prevention in St. Louis, Missouri. DEA is acting as a catalyst to use local resources in the deterrence of pharmacy theft and in increasing the success of investigations of such crimes. After testing the program in St. Louis, DEA hopes to be able to offer the program to any other community which is interested in the program.

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Senator BAYH. Well, I don't know where that is going to lead us. Is the criteria in the Ford bill the same as the Treasury Department criteria prohibiting importation of small, easily concealable, non sporting handguns?

Mr. GAINER. Senator, this is an updating of the Treasury Department criteria. The proposal that you have introduced is, of course, based upon the current factoring criteria utilized to screen imported handguns. The provisions in the administration proposal are very close to those that are included in your bill. It is an updated version of the list that had been prepared by the Bureau of Alcohol, Tobacco and Firearms, with additional minor modifications. It is a variation of that same list.

Senator BAYH. Well, I think we can work together at the staff level or individually, personally, to deal with those differences because I think we are both trying to accomplish the same thing.

Do you have any evidence as to what percentage of the 1.8 million handguns made in the United States last year would be affected by the administration's factoring criteria?

Mr. GAINER. I think it's close to the order of 50 percent, I don't recall exactly. I will get those figures to the committee.

Senator BAYH. I think that's probably close. We had earlier received from Treasury, an estimate that my factoring criteria—the Treasury 1968 Act criteria—would reach 54 percent of all handguns.



## DEFENSIVE PURPOSE CRITERIA FACTOR

I don't want to belabor this, but one last question on the factoring criteria. I'm advised that you have in your factoring criteria a defensive purpose criteria. Could you tell us just what that means?

Mr. FULLER. Well, as you know, in the 1968 act all that was said—the only discussion was the sporting purpose discussion. In this act that language “sporting purpose or defensive purpose”, it doesn't serve the same functions as it did in the 1968 act. As a consequence the factoring criteria you are talking about, that will be what defines the Saturday Night Special. To the extent that the Treasury would have any further discretion in implementing the Saturday Night Special ban, it would be limited to those weapons which have neither a sporting purpose, nor a defensive purpose; that's the only thing.

In the 1968 act the criteria weren't spelled out, now they are. And no weapon that doesn't meet those criteria will be allowed.

Senator BAYH. Well, then, why bring in the “defensive”?

Mr. FULLER. As we said in the testimony, the effort is to restrict the Treasury's discretion in this regard. It has a little discretion, but not very much. That's why it is in there. The sporting purpose test is no longer the test.

Senator BAYH. Well, the factoring criteria up until now has been related to the sporting purpose test. Can you tell me any firearm—other than one with the barrel plugged, or something similarly disabling—that couldn't pass a defensive test?

Mr. FULLER. I know of none, but I know of a lot of weapons that would not pass the factoring test in that bill.

Senator BAYH. That's why I say, why bring in that measure, that phrase that has never been used before, in dealing with firearm problems?

Mr. FULLER. The prohibition is already in the bill, to that extent there is really nothing left of the sporting purpose—defensive purpose test. If it does anything, it would restrict the Treasury's ability to go beyond, or less than the criteria that already exist.

Senator BAYH. I am very well aware of why that factoring criteria is in there. I suppose it is in there for the same reason we had it in 1972 and in S. 1880. We know what we are after, but some new Secretary of the Treasury may look at it differently. Let's tie it down as I have. Let's be certain what we are after and not permit discretion, devious or otherwise, in the future.

I'm just wondering, it's not anything to make a Supreme Court case out of, but if we are talking about consistency and really dealing with what we are trying to accomplish, I don't see how you could include the defensive purposes without being contradictory.

Mr. FULLER. You know, that kind of language, whatever significance it has, that is something you should consider in considering

the bill. I think the legal significance of it is very minor. I think the factoring criteria is what is important.

Senator BAYH. Why was it used if the legal significance is——

Mr. FULLER. As I said, it was used to restrict the amount of discretion the Treasury Department has.

Senator BAYH. That's what you said about the factoring criteria.

Mr. FULLER. It's part of the same package.

Senator BAYH. But I don't see how you can say that the use of a phrase, which by your own admission would encompass any firearm in working order, could restrict a future Secretary of the Treasury. The factoring criteria which is in there is what restricts him now, right?

Mr. FULLER. It could restrict them from going further than the factoring criteria.

Senator BAYH. To say you can use the defensive purposes test—can you bar the door?

Mr. FULLER. Except that you can't change the factoring criteria, that's in the bill.

Senator BAYH. I understand that. Why have "or defensive purposes"?

Mr. FULLER. I can't say it any more than I said it. It is really to restrict the Secretary's ability——

Senator BAYH. Don't say that again, please. You have a good legal mind, and I know it's more astute than that. You just can't restrict a Secretary by saying "or" criteria which by our own admission lets in any firearm.

Well, let's not pursue this further. I think you are perfectly right that by the factoring criteria you are limiting the Secretary, but we can't use that language which would mean no holds barred.

Mr. Attorney General and gentlemen, you have been very patient to stay this long. I hope we can work together in this very sensitive area, it is critical. I appreciate the fact that now at least we have a public servant who is sensitive to this critical problem; sensitive to the demands, as well as the political volatility of the issue. Thank you very much, gentlemen.

Mr. LEVI. Thank you.

[Subsequent information relevant to the hearings follow.]



## Department of Justice

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ADVANCE COPY FOR RELEASE AT 7:30 P.M., E.D.T.  
SUNDAY, APRIL 6, 1975

ADDRESS

BY

THE HONORABLE EDWARD H. LEVI  
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE

THE LAW ENFORCEMENT EXECUTIVES NARCOTICS CONFERENCE

7:30 P.M.  
SUNDAY, APRIL 6, 1975  
EMBASSY ROW HOTEL  
WASHINGTON, D.C.

I would like to talk with you tonight about a problem that concerns us all, both as officials charged with the duty of enforcing the law and as citizens and residents of American cities. Violent crime in the nation's urban areas has reached grave proportions. As police chiefs you meet this problem every day. You see the ugly results of violence not only among the victims of such crimes, but also in the looks of fear that appear intolerably often on the faces of the people you serve.

The Federal Bureau of Investigation's latest figures indicate that the rate of serious crime -- murder, forcible rape, robbery, aggravated assault, burglary, larceny, and auto theft -- was 17 per cent higher in 1974 than in 1973. That is the biggest increase in the 42 years the Bureau has been collecting statistics. Since 1960, the rate has increased about 200 per cent. Among the serious crimes, those involving violence or the threat of it have also been on the increase, in large part because of increases both in the cities and in the suburban areas around them. Once composed mainly of crimes of passion within families or circles of acquaintances, the murder rate lately has included increasing numbers of crimes in which the perpetrator and victim were strangers. Impersonal, passionless murder on the street has come to symbolize to many people the insecurity of living in crowded urban environments.

I don't want to overemphasize these statistics or to play upon people's fears. It would be easy to do so because people are already afraid and are prepared to accept arguments that give them more cause for fear. I also recognize that the statistics may give a distorted picture of the problem, representing changes in the level at which crime is reported as well as the level at which crime occurs. Yet those qualifications do not offer us much solace.

We are brought face to face with the problem of violence and we must discover new methods to bring it under control. Even the best we can offer, we must concede, will not bring an immediate end to the violence. And achieving our best will undoubtedly take time. Yet we must try to act immediately to counter a dangerous trend in our cities, in which citizens, skeptical of the government's ability to protect them, seek to guarantee their personal safety through a terrible balance of force. The idea that individual security depends on an armed standoff between citizens threatens the very heart of civilized society.

That idea threatens the legal system directly because faith in the law -- in its effectiveness and in the fairness and decency with which it is enforced -- forms the foundation of obedience to the law. Faith in the law has also been called into question recently by a wave of cynicism about the way law is enforced. To counteract the cynicism and in that way restore some of the law's



effectiveness we must all by our conduct exemplify the evenhandedness and kindness of American law. We must show Americans the law is something in which they should believe. But that effort, while it is absolutely necessary, will not make an immediate change in the pattern of violence.

It would be comforting to know precisely what forces and conditions cause crime. But we must do without that comfort because we don't really know all the causes. Even when we think we have isolated a cause, it isn't at all clear what we can do to remedy it. To be sure, economic hardship, dissatisfaction with the quality of life, and deterioration of social institutions have had a devastating effect on obedience to law. These are fundamental matters that shape the morale of the people. Some have argued that our approach to the problem of crime must center exclusively on these matters. And they have found a contradiction between trying to remedy these social problems and trying to strengthen the deterrent impact of the criminal law. I deny that there is any incompatibility.

People's morale depends in part upon their faith in the law's ability to protect them. To reduce their fear of violence is to increase their real wealth. Likewise the decline in the deterrent force of the law impoverishes us all. Chaos in the criminal justice system makes it unlikely today that an offender will receive a punishment commensurate with his crime, and that has

reduced the deterrent effect of law drastically. An unpublished study conducted in one major American city showed that only four per cent of the persons arrested for a felony were actually convicted of that felony. Even fewer ever went to prison. FBI statistics show that there are only 19 arrests for every 100 serious crimes reported. And recent research by the Law Enforcement Assistance Administration indicates that in some categories of crime many occurrences are never even reported to police by the victims. When people know that the odds of punishment for criminal conduct decline at every level of the criminal justice system because of inefficiency and disorganization, the deterrent value of punishment is minimal. The deterrent power of the criminal law depends not so much upon the severity of punishment as it does upon the swiftness and certainty with which punishment follows the crime. Finding ways to strengthen this deterrent impact is extremely important.

While we must make our best efforts to discipline and strengthen the criminal justice system and to restore the quality of life in our cities, these things cannot be accomplished rapidly and when accomplished may still not quickly reverse the increasing incidence of violence.

The effort against crime must involve many new techniques because the problem involves many facets, but we can concentrate on the facets one by one. Tonight I would like to discuss one

element of the problem of urban violence. The handgun has become the common denominator of much of the violence that besets us. The stock of handguns in the United States has been estimated at more than 40 million, and that number increases each year by about 2.5 million. The handgun, in itself, is nothing but a relatively simple machine. In some circumstances the handgun is not socially troublesome. It can be used for sport. It can be used in the wilderness for self-protection. Nevertheless, in crowded urban areas the handgun has become a medium of terror. More than half of the murders in America -- perhaps 10,000 in 1973 -- are committed by persons using handguns. About one of every four aggravated assaults and one of every three robberies involves a handgun. In the decade ending in 1973 a total of 613 policemen died of wounds inflicted by handguns. And apart from those statistics, handguns carried on the streets of our urban centers have become the focus of fear. While handguns have reaped great carnage, they have sown an even greater anxiety.

A handgun makes an individual in a city too powerful for his environment. It is a menace because it can be so readily hidden. It is a mechanism that translates passion or a passing evil intent into destruction. The possibility, or in some neighborhoods knowledge, that people roam the streets with handguns in their pockets has called into question the safety of even venturing out from behind locked doors. And the fear of handgun violence has provoked people to purchase their own handgun for

self-defense, causing a proliferation of arms that aggravates the basic problem. In short, handguns pose a great threat in cities beleaguered by violence.

Most states have some form of gun control law, ordinarily regulating the place and manner in which firearms may be used and setting some limits on the people to whom handguns may be sold. Only two -- New York and Massachusetts -- have strict laws. Many cities have tough firearm registration or licensing laws. The latest federal statute, passed in 1968, requires manufacturers, importers and dealers in firearms to obtain a federal license. It prohibits them from selling to persons they have reason to believe are convicted felons, persons under indictment for a felony, fugitives from justice, addicts or adjudicated mental defectives. It also requires some record-keeping by gun dealers. And it bans the import, though not the manufacture, of cheap handguns, the so-called "Saturday night specials." Those state, local and federal laws have proven to be insufficient.

While the 1968 federal law has made it difficult for anyone to purchase a cheap imported handgun, it has not prevented anyone from buying a similar weapon manufactured or assembled within the United States. A person who lives in a city that has a law prohibiting him from buying a handgun need only travel a short distance -- often only across the street into a suburb -- to purchase a weapon legally. The federal law requires licensed gun dealers to keep records of purchasers of handguns, but it does not require the same of individuals who sell or transfer weapons

but don't make a business of it. Consequently there are no universal records of gun ownership. That makes federal prosecution difficult. And it hampers efforts to trace the origin of weapons used in crime. In state and municipal courts, the crushing burden of other criminal cases leads prosecutors and judges to give low priority to the proper adjudication of gun law violations. Finally, judges often hesitate to impose criminal sanctions on people whose only offense is carrying a weapon for self-protection.

Finding current gun control laws ineffective, the mayors and police chiefs of many major cities, the executive director of the International Association of Chiefs of Police, the United States Conference of Mayors, the Director of the Federal Bureau of investigation, and many other knowledgeable officials and groups have called for further restriction on handguns. Yet since 1968 no new major federal legislation has been passed.

The idea of gun control generates strong feelings. Some oppose it because they fear they will be stripped of their only defense against violent criminals who would otherwise prey upon them. Others urge that there is a constitutional policy of government restraint in regulating firearms reflected in the Second Amendment, which states, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." Gun control is criticized as missing the point because weapons alone do not



cause crime. Many of the objections to gun control, however, simply do not reflect the conditions of modern urban life. They are based on an American style of living that no longer exists in the places where people have congregated to live. And while it is easy to sympathize with those who want handguns to protect themselves from others who have handguns, it is obvious that they contribute to the unacceptable proliferation of handguns in the cities.

The test of our government may lie in its ability to open thoughtful discussion on issues marked by deep emotional divisions. I want to use this occasion to try to do just that, for there is much to talk about.

Proposals relating to handguns range from total prohibition of manufacture and sale coupled with confiscation of existing privately-held handguns to the repeal of all laws that currently place limits on weapon commerce and ownership. In between those extremes there have been proposals for national registration of handguns, for national licensing of handgun owners, and for tightened enforcement of current handgun controls.

Any realistic proposal for federal regulation of handguns must take into account the interests of the opponents of gun legislation. Some people may say that for that reason any new federal gun control law will be less than perfectly effective. The accommodation of strong competing interests almost always results in something different from what any single interest desires. And yet the accommodation required by our system of

government can accomplish something useful.

One approach to handgun control we have been discussing is designed to eliminate the so-called "Saturday night specials." These cheap, low-quality handguns pose a special threat simply because they are so inexpensive and so accessible to anyone willing to pay twenty or thirty dollars for a large measure of deadliness. They are the handguns most commonly used in crime. A study by the Treasury Department of more than 4,500 handguns used in crimes in four major cities indicated that 70 per cent were "Saturday night specials." The main problem in prohibiting these cheap and dangerous machines lies in defining their characteristics. We believe that an effective test can be devised to define these weapons with sufficient clarity. It would include a variety of factors such as overall size and barrel length, the presence of safety features, the metallurgical quality of the weapon's parts, and the performance of the handgun after being subjected to various strains.

Banning manufacture and sale of "Saturday night specials" would begin to remove from circulation the kind of handgun most often used in urban street crime. Short of prohibition, a taxing system could be developed to price this variety of weapon out of existence. The only advantage purchasers see in these low-quality weapons is their low price. A graduated tax

could be designed to bring the price of every handgun up to some specified level. For example, a \$25 handgun could be taxed \$75, a \$75 handgun could be taxed \$25, and a \$90 handgun could be taxed \$10 to make the cheapest available handgun cost no less than \$100. If enforcement efforts cut off the development of a black market in cheap handguns, economic forces would quickly make it unprofitable for anyone to manufacture "Saturday night specials."

But "Saturday night specials" are not the only weapons on the street, and a ban on their manufacture and sale would not eliminate the threat caused by existing handguns -- cheap or expensive. "Saturday night special" proposals do not discriminate between areas of the country where the need for control is greatest and the vast areas where handguns pose less of a threat. Also, it is hardly opening new vistas of discourse to come to you with suggestions about controlling cheap handguns. That idea has been around for some time. A proposal to implement it passed the Senate in 1972. The Department of Justice has on more than one occasion supported the idea of controlling "Saturday night specials," and President Nixon offered some support for it in 1973.

A newer approach to handgun control is to design a mechanism which includes strong sanctions against violators but which strikes only in places where the need for handgun control has been clearly demonstrated by a critical level of violence. At the Department of Justice we have been sketching out ways in

which such a mechanism might operate.

We began by concentrating on urban centers where the problem of handguns is most critical. The Standard Metropolitan Statistical Areas designated by the Office of Management and Budget are a convenient tool for defining the limits of the areas in which our proposal might operate. Those statistical areas all include a central city with a population of 50,000 or more and surrounding political subdivisions. Preliminarily, we have discussed a mechanism which would be set into operation either by a local violent crime rate significantly higher than the national average or by a high local violent crime rate coupled with a significant increase in the local rate of violent crime over the course of a year. For example, assume that the mechanism had been put into effect in 1972 and assume that the system provided federal controls in a local area if its violent crime rate was either 20 per cent higher than the national average or both 10 per cent higher than the national average and five per cent higher than the previous year's local rate. Under these assumptions, a federal gun law designed to go into effect in limited geographic areas would have applied in 62 Standard Metropolitan Areas including New York City, Washington, D.C., Chicago, Baltimore, San Francisco, and Los Angeles.

The formula could be adjusted, of course. For example, the mechanism might only apply to Standard Metropolitan Statistical Areas with core cities whose population exceed 250,000. Under the assumptions I mentioned just a moment ago, only 27 relatively

large metropolitan areas would be covered by such a mechanism. Perhaps some metropolitan areas would want to be covered but would not be under either hypothetical formula I have described. Perhaps both of the formulas are over-inclusive. The point here, though, is the broad idea and not the technical details.

In areas where the violent crime rate has reached the critical level, this proposal would ban the possession of handguns outside the home or place of business. It would apply to all handguns, not simply "Saturday night specials." It would ban the sale or transfer of handguns and handgun ammunition in the relevant metropolitan areas and also prohibit importing handguns into the metropolitan area, except in certain circumstances in which the guns are imported for the use of law enforcement or other strictly defined security personnel exempt from the law.

In these critical crime areas an owner of a handgun would be required to obtain a special permit of extremely limited duration if he wanted to transport his weapon outside his home or business for a legitimate reason. Handguns could be used at target-shooting clubs if they were kept in secure arsenals at the clubs.

It is well to remember that the areas in which these federal controls would apply are those which generally want strict controls the most. They are the areas which need



controls the most. And they are the areas that suffer the most from the lack of effective national regulation over the interstate transportation of handguns. The regional approach I am outlining avoids more drastic nationwide measures such as registration and licensing, but it strikes no less than they do at the illegal commerce in weapons. It strikes not at the moment a handgun crosses a state line but rather at the end of the line of commerce when the weapon has reached the hands of an individual who is the reason for the commerce in the first place. It strikes at the moment when the weapon is most deadly.

There are many variations that can be built upon this regional critical crime rate mechanism. It could include a high civil penalty plus confiscation of the weapon for the first violation of the possession or transfer provisions. This kind of penalty, we believe, would be stiff enough to deter violation. But because it would be a civil penalty, judges would not hesitate to impose it on otherwise law-abiding citizens. A second offense could carry a short prison term and a third offense and any violation of the gun-running provisions of the law could carry a stiff criminal penalty.

These penalties -- indeed all features of this proposal -- could be modified. But in discussions with U.S. Attorneys and other law enforcement officials, most have told us that this gun control mechanism could have a significant effect on urban gun crime. They have offered suggestions. Some have suggested,

for example, that a civil penalty for the first offense is not enough because prosecutors would not take seriously a law providing such a mild sanction. We are considering their suggestions, but they do not go to the essence of the regional approach.

As one final consideration, a gun proposal of the sort I have just outlined may not be effective unless it were imposed for a period of years once crime in a metropolitan area reached critical levels. If the federal law were to switch on and off with slight changes in the crime rate, we believe that the important deterrent effect which stems from the certainty of its enforcement would be lost. In addition, the benefits of a federal law would not flow instantaneously but would only occur when a lasting pattern of strict enforcement becomes clear. Nevertheless, the mechanism could be designed to free a metropolitan area of federal handgun regulation once the crisis level of violence had clearly passed.

This proposal has several advantages. Because it would cover not only central cities but also the suburban regions around them, it would avoid the problem encountered in so many cities whose neighboring suburbs do not control handguns strictly. The federal law could reduce the possibility of crossing the street from a city into a suburb to purchase a lethal handgun whose sale had been banned in the city. It could change people's habits with respect to handguns. And a change in the habits of a society can make the crucial

difference in its conduct. Finally, it would leave unaffected the use of handguns in vast areas of the nation, in cities where violence has not reached emergency proportions and in rural areas where handgun use is both less threatening and more legitimate.

The handgun control proposals I have discussed tonight are only a small part of the universe of social inventions we could design to stem the spread of firearms. Gazing at a universe can be rather frightening sometimes because it involves seeing such a limitless range of possibilities. In the past we have often avoided this sense of vertigo by seizing upon one idea, reducing it to the language of legislation, then trying to sell it in a market that encompasses deeply divided interests. And in the past we have often failed. I reject the idea that the universe of possibilities for controlling handguns is foreboding. I believe it makes for a great challenge because it offers so many opportunities for thoughtful discussion and compromise.

I am calling upon you tonight and upon other law enforcement officials as well as representatives of all sides of the gun control controversy to join with the Department of Justice in conversations that can lead to legislation to stem the violence in our cities. The dangers to our society posed by uncontrolled violence are simply too great for us to fail to act.

I have concentrated tonight on only one approach to the problem of urban violence. Of course, we must design other

approaches, other social and legal inventions to increase the efficiency of the criminal justice system -- the police, the courts, the system of corrections. I believe that if we use our best wisdom and our most resolute spirit we will be able to fashion those inventions. I chose tonight to talk of only one facet of the problem because handguns are such a basic factor in violence and the declining morale in our cities and also because finding a means of controlling handguns challenges our democratic institutions to produce a compromise measure that can still be effective.

The control of handguns is a terribly difficult problem that generates deeply emotional responses in all quarters. But it is also central to the horrible insecurity affecting so many of our cities. I need your advice and participation in the discussions I hope will begin in good faith on the subject of handgun control. And I pledge my cooperation and the cooperation of the Department of Justice in your efforts to bring peace to your communities.

[From the CBS Evening News, July 22, 1975]

## NEW GUN CONTROL PLAN

WALTER CRONKITE. The Ford administration today outlined a gun control program it plans to submit to Congress. Attorney General Levi talked about it at a Senate hearing, and Barry Serafin reports.

SERAFIN. Levi came to sell the administration's gun control program, which he said would save lives and make city streets more habitable. Among other things that program would beef up federal enforcement, prohibit the sale and manufacture of so-called Saturday Night Specials, small easily concealable handguns, and stiffen requirements for gun purchasers and sellers.

Attorney General LEVI. I think one has to hope that if there is proper and acceptable regulation of handguns, Saturday Night Specials, particularly, that the need which many people feel for this kind of support, of possessing their own and being able to use it because they think a crime is going to be committed against them, will—will also diminish.

SERAFIN. Differences over the highly charged issue of gun control were evident among subcommittee members.

Senator HRUSKA. It is totally unacceptable to think in terms of registration of prohibition or gun permits. It's just not in the works. It can't be done politically. I don't think even if it could be done politically it could be enforced, and certainly not by federal authorities.

Senator BAYH. It seems to me we have a responsibility to deal with how we can minimize, not totally remove because I don't think there's any way we can do it. But how can we minimize access to firearms by those who are going to use them against society?

Senator KENNEDY. How the members of Congress, my colleagues and your colleagues, can possibly justify opposition in the areas of Saturday Night Specials whose range is no greater than seven or eight feet and its only purpose is to kill somebody, under the guise that this is really moving in on the legitimate sportsman is something that you and I find difficult to accept.

SERAFIN. Senator Bayh, author of a bill which in some ways parallels the administration plan is guarded about the chances of passing new gun control legislation this year.

Barry Serafin, CBS News, Washington.

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[EXCERPTS FROM THE CONFIRMATION HEARINGS OF THE U.S. SENATE COMMITTEE ON THE JUDICIARY ON THE NOMINATION OF EDWARD H. LEVI TO BE U.S. ATTORNEY GENERAL]

[PAGES 33-35]

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Senator KENNEDY. Well, you are, I am sure, very sensitive to the point, however, that there are many criminologists who think that we spend too much time cracking down on marihuana users and not enough on doing something about organized crime or crimes of violence, which are certainly even a greater threat to personal security.

So I think this is, given the kind of allocation of resources, something which is important to understand in terms of the areas of priority that you have.

I gather from what you have said it is urban crime, and I imagine this is what would normally be characterized as crime in the streets. Now do you think, given your response, that this translates into allocating additional funding for efforts to meet the threat? Do you see that as being a likely possibility as well?

Mr. LEVI. Senator, I am really not in a position, perhaps I should be, to discuss the budget for the Department of Justice. I am sure that one would want additional funds but I am really not in a position to make an expert judgment on it. I must say I was asked before, how are the LEAA funds spent, and these could help greatly if they are spent correctly.

Senator KENNEDY. I am sure you are aware of the report of the Violence Commission. When that Commission addressed itself to the problems of crime it also, particularly in the urban areas, talked about the economic conditions which existed in many of the areas of high crime. It talked about jobs, hous-



ing, education for minorities, and I am just wondering what your general reaction is—whether you feel that these factors contribute to crime and to what extent do you feel they impact the incidences of crime, particularly in urban areas?

Mr. LEVI. I am sure they contribute to crime and I did mention a better system of schools as being one example. But there are a host of examples. One could ask whether the services which the community provides are least provided in the areas which need it the most. But, I would not want to say that for that reason the enforcement of law itself should not be carried out because I cannot imagine anything worse, really, for the protection of the poor in urban centers than an assumption that crime is all right for them and law enforcement is to be reserved for other areas. They need protection too and they want it.

Senator KENNEDY. You have indicated that one of the aspects of concern that you have would be the proliferation of the availability of weaponry, typically handguns. And, of course, this is something that not only I agree with. I think the various commissions on violence and crime have virtually uniformly recommended stronger gun controls. And I am wondering if you want to elaborate at all on this particular question?

I am thinking most specifically of what is generally considered to be "Saturday night specials." You are aware that over a period of about 4 years we had indications that the Justice Department was going to send up recommendations, which we have never received. And I am just wondering in the area, for example, of the "Saturday night special," whether you think this could be one of the areas which you would place as a priority?

Mr. LEVI. Well, I do give it priority. I think it is going to be extremely difficult. I know that there are divisions in this committee on that subject, and I gather there are divisions within divisions. And whether one can devise, accepting the important constitutional problem, whether one can devise acceptable, better, effective control over the "Saturday night specials" for urban areas, which means a better interrelationship between Federal regulation and local control. I do not know, but I would like to try very hard to accomplish that, and I would give that high priority but I am sure it is a difficult problem.

Senator KENNEDY. Would you be sending us legislation on the "Saturday night special"?

Mr. LEVI. I will try to send you proposals or to try to bring proposals together which might win some appropriate acceptance and which, as I say, would both preserve the constitutional right and might recognize the special problems in the urban centers and might provide some better way of interrelating the Federal regulation with local control.

I would give that very high priority. I do not know whether I would succeed on that or not, but I would want very much to.

Senator KENNEDY. I can understand, and I think all of us who have wrestled with this issue for some time understand, that there are different views among the members of the committee. What we are really interested in here is your view particularly on the "Saturday night special."

I do not understand what the possible opposition is from the various sporting groups on that particular item. They are inaccurate beyond 5 to 7 feet. It is absolutely indefensible for a sporting purpose. I can understand and recognize the argument that if you start moving down that road then it is going to stretch out into handguns and long guns and all of the rest, but certainly with regard to "Saturday night specials" I do not see how there could be any reluctance on your part in indicating that you would want to send legislation to the Congress, and then permit the Congress with the administration to work its will.

Mr. LEVI. Senator, I did not really mean to express my reluctance. I said I would make the proposal. I agree that what will happen to it when it gets to the committee I do not know.

Senator KENNEDY. Yes. But you will make a proposal on it?

Mr. LEVI. Yes.

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[PAGE 41]

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Senator SCOTT of Virginia. Thank you.

Mr. Chairman, just let me make a brief statement, if you will.

My inclination is to follow the President's recommendation. I compliment the witness on the responses he has made this afternoon. He has shown that he can answer questions by himself without Senator Percy being here to defend him and I commend him on this. If he is going to be the Attorney General of the United States, I would think he would have to have that capability, and I would hope that we can favorably report this nominee to the Senate.

I have some reservations about some of the answers that were given in the field of gun control, it appearing to me to be more of a State matter, and I just hope that in the event of your confirmation—and I believe you will be confirmed by the Senate—that you will be zealous of the rights of the States, as well as your duties as Attorney General.

Thank you Mr. Chairman.

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[PAGES 45-48]

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Senator BAYH. As one member of the committee, and that is all I can speak for, I certainly will lend my voice as loud or as soft as it may be considered downtown.

Let me ask one other question, and then I will yield to my distinguished colleagues who have not had a turn.

Are you familiar with the legislation that was passed—and our distinguished colleague from Nebraska who was here a moment ago was instrumental in helping me as chairman of the Juvenile Delinquency Subcommittee with this—the Juvenile Justice Act, which provides for a new approach to the problems of juveniles and the part they play in crime?

Mr. LEVI. I know that in a general way.

Senator BAYH. We continue to be concerned about the dramatic continuing increase in crime. I think there was a 16-percent increase last year, and I was shocked, as one who thought he was familiar with the problem of juveniles, when I first started studying this awhile back, to find that the majority of the serious crimes that are committed today are committed by young people under the age of 20 or 21.

We have now a new approach to try to emphasize rehabilitation and prevention which I think more than anything else can deal with the problem of crime, as well as prevent the loss of tens of thousands of lives to crime, once they get in a rut.

I would like to have your thoughts on the importance of this kind of legislation. It is a new program that is in the process of being implemented, and the success or failure could well depend on whether you, as the Attorney General, are willing to lend your significant influence in support of the congressional program which is now the law of the land.

Mr. LEVI. Well, I think it is enormously important. If you wish me to say more, let me say all programs of that kind do depend on administration, but it would be hard to think of anything more important in the criminal law field.

Senator BAYH. Then you feel comfortable in a commitment to implement the provisions of that act in the field of prevention and rehabilitation?

Mr. LEVI. As far as I can, yes.

Senator BAYH. Let me go back to my distinguished colleague from Nebraska and let the record show for the second time I have expressed the important role that he played in the drafting and the passage of the Juvenile Justice Act, and that I was asking the distinguished witness for his thoughts and his commitment to proceed at an administrative level to consummate the efforts that we began up here.

I want to ask one other question in this area. We are in a significant budget crunch as we all appreciate. When the President signed this legislation he said I am going to sign it but I am not going to ask for any new money.

To the credit of the people down at LEAA and the Appropriations Committees of the Congress, we now find this situation where there has been about \$20 million in the old LEAA programs that are being expended in this field, and there has been a reprogramming request approved by both the House and the Senate for another \$20 million. The authorization provided in this bill for

next year is for \$125 million. Now that is a lot of money. It is particularly a great deal compared to this year's appropriation, but when you look at the cost of crime and the significant component of crime that is related to our inability to provide prevention and rehabilitation for young criminals, I suggest this is probably the best way we can invest our money.

But as Attorney General you are going to be hard pressed when you look at that new budget which I understand does not have \$1 in it to implement the program that you feel as I do is important. Do you have any thoughts on that problem?

Mr. LEVI. Well, I suppose that I would gather, and I would hope that the State plans that have been drawn up will in fact provide funds for this program.

Senator BAYH. From where?

Mr. LEVI. Well, they will have to take it from somewhere else. And, of course, this relates to how good their conception is as to a unified program, and the part that this can play in a unified program. So I do not know the answer to that until one sees the plans which are drawn up and the emphasis which is given in them to the juvenile delinquent and his or her rehabilitation. It just might be that considerable emphasis will be placed upon that area.

Senator BAYH. With all due respect, let me suggest that the distinguished gentleman sitting behind that microphone is going to have as Attorney General a louder voice than anybody else in the administration in determining where those priorities are going to be, and that is why I asked the question, not to embarrass you, but we have to have a champion downtown in that very important role as Attorney General who realizes that we are concerned about lost lives and we are concerned about crime. We had better start at an age early enough that when we invest a dollar we are going to get a return on it, which we have not had after a person has been in the big house two or three times and we direct our attention to him. Those people, unfortunately, are pretty well lost, and we have to protect society from them. To keep future generations from individuals like this, from being thrust on the public, we have to be willing to stand up here, and you down there, and say Mr. President, Mr. Director, of the Office of Management and Budget, we feel that this is a good investment and we are going to do a job of reapportioning our resources to get the necessary money to implement these programs.

Mr. LEVI. Well, I'm not sure I can say more than to say that my interest in this is very genuine. I would be a champion for it. I do think the way the LEAA funds are to be committed depends a great deal on local decisions so that it is not quite clear that this champion has it in his hands to do quite what you say, and I think you may be asking me a question about the total Department of Justice budget which Congress will have something to say on, and as to that it's very difficult for me to make judgments.

Senator BAYH. Well, let me just say, and I don't want to come close to the line of badgering—

Mr. LEVI. I don't feel badgered.

Senator BAYH. My involvement in this is perhaps the reason for the intensity of my feeling. I think the problem is legitimate. As I understand the new budget, it purports to, and I salute the President, look for ways to effect economies, but in your responsibility down there, and in other departments involved in enforcement, this is the kind of thing where we cannot very well economize unless we are going to do a less prudent job of enforcing. Budgetary cuts are going to be felt by you down at the Justice Department, and they are going to come out of LEAA funds, and that means the shoe is going to get pretty tight. That means that we are going to have to have an Attorney General, and an administrator of LEAA, as well as some of us up here on the Hill, who are willing to go to the mat to see that as these cuts are felt we do not have a program that is new and is just getting started totally ignored. That is why I direct your attention specifically to this area.

Mr. LEVI. Well, I think it is a very important program. I must say as a university president who has had to cut budgets, I don't think you can always measure the effectiveness of the program by the amount of money that is spent on it, and I don't mean that to be taken as indicating a lack of interest, because I think this is an extremely important program, and I am certainly going to be a champion for it.



Senator BAYH. I agree with you that there are measures of success other than dollars, but when the budget request is zero I think that question is moot, and where local and State decisions have an impact on LEAA funds, where you have a new program that is just getting started, and we are talking about changes and new representations on State planning boards with LEAA to try to emphasize the need for prevention and rehabilitation, they look to see whether Congress and the Federal Government that allocates these resources mean business. If I were on one of those planning committees and saw no money in that budget, I would get the message pretty quickly. That is why I think, sir, we have to count on you, and count on your appropriate committees up here to allocate the resources that we need down there in the Justice Department.

Mr. LEVI. But there is a requirement for unified programs, there is a requirement that takes into account the juvenile justice problem, and maybe part of the answer is to make sure that really is implemented.

Senator BAYH. Agreed, but we all know that to implement them is going to take money. I am not talking about—and I want to emphasize this now—we are not talking about mollicoddling young juveniles who commit adult kinds of offenses, who have been in the system, and only their age keeps them from being described as an adult threat to society. We are talking about the comingling of runaways and truants in the system with that other kind of individual which results in breeding a whole generation of those that know all the tricks of the trade.

One of the things that concerns me is that we have some good programs that are started in LEAA, the youth service programs, and many of them, if not all of them, are very successful, but many of them are now faced this fiscal year with having their 3-year grant of Federal funds terminated, and thus we are not going to be able to continue the good work that is being done, let alone implement a new program and expand its provisions unless we get more money.

I will not pursue this further, but I am going to be asking you—if this is not inconsistent—to stand up and to go to the mat at the same time on these important programs.

Mr. LEVI. Well, I will not forget the point.

Senator BAYH. Thank you, sir.

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## UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

October 10, 1975

Address Reply to the  
Division Indicated  
and Refer to Initials and Number

Mr. John M. Rector  
Staff Director and Chief Counsel  
Subcommittee to Investigate  
Juvenile Delinquency  
Committee on the Judiciary  
United States Senate  
119 D Street, NE., Room 504  
Washington, D.C. 20510

Dear Mr. Rector:

Attached as you requested are a copy of my testimony on the Administration's gun control proposal before the House Judiciary Subcommittee on Crime and material prepared by Edward D. Jones, III of my office concerning the cost of the namecheck provision in that proposal.

The materials being prepared by the Bureau of Alcohol, Tobacco, and Firearms on the differences between the factoring test now used to evaluate imported weapons and the factoring test contained in the Administration bill should be ready early next week.

Please let us know if we can be of further assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ron Gainer".

Ronald L. Gainer  
Acting Director  
Office of Policy and Planning

Attachments



October 9, 1975

Assessment of Handgun Purchaser Namecheck Costs

HR 9022 provides for several new administrative requirements relating to the purchase of handguns from licensed dealers. These include (a) the production and dissemination of forms by Alcohol, Tobacco & Firearms (ATF) to dealers for the purpose of a namecheck of prospective handgun purchasers; (b) the posting of forms by dealers to police officials in the purchaser's place of residence and place of weapon storage (if different) for namecheck and associated verification of information; (c) the possible forwarding of the form to FBI Headquarters in Washington, D. C. for namecheck; and (d) the return of the form to the dealer for action and storage.

Costs associated with each requirement are discussed in turn below.

(a) Production and Dissemination

ATF will be required to produce forms (most likely in a five-copy carbon package) with relevant information requests and post them to dealers. Assuming that each form costs \$.50 and postage for ATF delivery to dealer is \$.13, the assumed total cost for (a) is \$.63.

(b) Dealer Post of Form to Police

After a prospective purchaser fills out a form, the dealer forwards it to at most two police jurisdictions for namecheck. The FBI has determined that the per unit (including overhead) namecheck using three identifiers -- name, birth date, and birth place -- costs \$2.08. Assuming that each form is sent to two jurisdictions for namecheck, the cost at this stage is \$4.16. This estimate is based on the cost of FBI namechecks and may be high because police departments have fewer filed names to check. Field verification may be necessary in some cases, for example, to check an address. It is assumed that this could be done by the relevant beat officer at no additional cost to the police department. We assume that each form is sent by the dealer to the police departments by certified mail (1 oz.: \$.30 + \$.13 postage) or registered mail (1 oz.: \$.95 + \$.13 postage). The total cost for (b) is \$4.59 (certified mail) or \$5.24 (registered mail).

cont.

- 2 -

(c) Police Post of Form to FBI

Assume that each form is sent to the FBI for a name-check by the police in the purchaser's place of residence. Using the earlier figure, the FBI namecheck would cost \$2.08. Again assume that the form is posted both to and from the FBI at certified (\$.43) or registered (\$1.08) rates. The total cost for (c) is \$2.94 (certified) or \$4.24 (registered).

(d) Police Post of Form to Dealer

The form approved or disapproved will be returned to the dealer for action and storage. The only cost here is postage: certified mail (\$.43) or registered mail (\$1.08).

Conclusion

We have assumed in the analysis that the dealer does not incur indirect costs in the transmittal or storage of forms. Further, we have assumed that there are no additional federal or local investigative costs incurred to processing a form. A more detailed analysis with additional data is necessary to draw inferences in these areas. The direct cost estimates of stages (a) thru (d) are:

	<u>Certified Mail</u>	<u>Registered Mail</u>
a	\$ .63	\$ .19
b	4.59	5.24
c	2.94	4.24
d	<u>.43</u>	<u>1.08</u>
Total	\$8.59	\$11.19

Each is on the high side because we have assumed two local police checks instead of one, and certified or registered mail at each stage. In fact, regular mail at the first class rate (\$.13) will likely be used at each stage except from the dealer to the public. If so, the costs will be:

	<u>Certified Mail</u>	<u>Registered Mail</u>
a	\$ .63	\$ .63
b	4.59	5.24
c	2.34	2.34
d	<u>.13</u>	<u>.13</u>
Total	\$7.69	\$8.34



# Department of Justice

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STATEMENT OF

RONALD L. GAINER  
ACTING DIRECTOR  
OFFICE OF POLICY AND PLANNING  
DEPARTMENT OF JUSTICE

BEFORE THE

SUBCOMMITTEE ON CRIME  
HOUSE COMMITTEE ON THE JUDICIARY

ON H.R. 9022  
PROPOSED AMENDMENTS TO THE  
GUN CONTROL ACT OF 1968

OCTOBER 1, 1975

Mr. Chairman; Members of the Subcommittee:

I have been requested to discuss with you today the provisions of H.R. 9022, a bill introduced by Congressman McClory on behalf of the Administration. The bill would amend the Gun Control Act of 1968.

I need not recite to you the statistics concerning the proportion of violent crime that is accomplished through the use of handguns. At this stage of your hearings, you gentlemen are keenly aware of the extent of the problem. You are also aware of the difficulties in attempting to achieve a solution. While there appears to be a developing consensus that something must be done by the Congress about the criminal misuse of handguns, the form that such action should take remains in issue.

H.R. 9022 does not propose a ban on the possession of handguns. Nor does it propose a system of licensing owners of handguns or of registering the handguns in private possession. It does contain, however, a series of provisions which in themselves constitute relatively minor extensions of the existing federal laws, yet which, in combination, afford a realistic hope of achieving a significant reduction in the scope of the problem.

H.R. 9022 is designed to help reduce the problem of criminal use of handguns through a combination of four general measures: first, by assuring that dealers' licenses may be obtained only by bona fide firearms dealers; second, by requiring that dealers take certain steps before selling a handgun in order to assure that persons seeking to purchase handguns are lawfully entitled to do so; third, by prohibiting absolutely the manufacture and sale of cheap, unreliable handguns commonly known as Saturday Night Specials; and fourth, by undertaking measures to increase the effectiveness of enforcement efforts.

The first of the four measures is intended to restrict dealers' licenses to those actually conducting a firearms business and to assure that their business is conducted lawfully.

Today, anyone with ten dollars and a felony-free record can become a federally licensed firearms dealer. Moreover, those licensees who choose to do so may then operate in violation of the law with little realistic chance of being detected. Given the fact that there are now approximately 150,000 federally licensed firearms dealers, the likelihood of an unlawful dealer's being discovered through routine inspections is minimal. Treasury agents are able to visit each dealer's place of business approximately once every ten years, and



during that visit have time to review an average of only four or five randomly-selected sets of records.

Part of the problem is that today there is only one class of federal firearms dealers' license. Yet many dealers wish simply to sell ammunition as a service to their customers. Others are interested only in handling long guns for hunters and marksmen. The current law does not even require that the licensee really be in the business of buying and selling firearms. Indeed, many persons presently obtain licenses as a convenient means of circumventing some of the general purposes of the 1968 Act, and they may do so lawfully. The 1968 Act was not intended to be a voluntary licensing system for anyone willing to pay a ten-dollar fee for the privilege of purchasing weapons from persons in another state. It was designed to require certain conduct by persons in the business of buying and selling firearms, and it was intended as a strict limitation on interstate sales. The Treasury Department has emphasized in the past the need for a change in the requirements for obtaining a dealers' license so that only a bona fide dealer may obtain one. H.R. 9022 includes a series of provisions that will accomplish the Treasury Department's objective.

Specifically, the bill would establish various classes of licenses and would impose a scale of fees calibrated to the need for routine inspections of those holding the particular

kinds of licenses. The dealers' fees would range from a high of \$500 for a pawnbroker dealing in handguns as well as long guns, to a low of \$25 for a retailer selling only ammunition. The Secretary of the Treasury, prior to issuing a license, would be required to review the genuineness of the applicant's intent to engage in a bona fide business, the capitalization of the business, the applicant's business experience, and other factors relevant to establishing that the applicant is in fact intending to engage in the firearms business. Such provisions are similar to those currently enforced with regard to applicants desiring to engage in commerce involving alcoholic beverages. These provisions should enable the Bureau of Alcohol, Tobacco and Firearms more carefully to screen applicants for firearms licenses, particularly those who wish to deal in  
1 handguns, and the increased fees should provide a source of  
2 revenue that will more closely approximate the actual administrative and inspection costs of an adequate supervisory program.

The bill would also give the Secretary of the Treasury wider discretion in imposing penalties on dealers who have been found in violation of existing provisions. Currently, the Secretary is limited to revoking a dealers' license. Under H.R. 9022 the Secretary would also have available the ability to suspend the license or to impose a civil penalty of up to

\$10,000, depending upon the gravity of the violation. The bill also provides for review of such administrative determinations in order that any arbitrary action may be avoided or corrected.

The second measure in the proposal would impose a series of restrictions upon dealer sales of handguns. It is designed to cut off the supply of handguns to persons with felony records or persons who for other reasons may not lawfully possess handguns under existing laws.

The 1968 Act prohibits sales by dealers to persons whose possession would be illegal under a state law or published local ordinance applicable at the place of sale, delivery, or other disposition. Despite this prohibition, many cities that have strict handgun control laws are unable to assure the effectiveness of those laws because neighboring jurisdictions permit their dealers to sell handguns without regard to the laws of the central city. The 1968 provision prohibiting such sales has not been enforced because it cannot be enforced. H.R. 9022 is designed to make the current prohibition more enforceable by requiring handgun dealers to take steps to avoid inadvertent sales to persons who cannot lawfully possess handguns.

Under the 1968 Act dealers are required only to obtain and file a written statement by the purchaser of a firearm setting forth his name, age, and place of residence, and asserting that

he is not a member of a class barred from acquiring a firearm. The 1968 Act does not require any effort by the dealer to determine whether the purchaser legally can own a firearm. There is no requirement for checking the data supplied by the purchaser and no provision for delaying delivery of the firearm, except in the case of a mail order sale.

Under H.R. 9022, handgun dealers would be required to take a series of steps to verify that a prospective purchaser is legally entitled to possess a handgun. No handgun could be sold to anyone who does not appear personally at the dealer's place of business. The prospective buyer would have to fill out a form setting forth his name, age, and place of residence, and the place where the handgun is intended to be kept. He would also be required to affirm that his receipt of the handgun would not be in violation of any law applicable at the place where he intends to keep it, and, if a permit is required under local law at the place where the handgun is to be kept, he must attach to the form a copy of his permit. This latter provision is designed to assist the dealer in verifying that the ultimate disposition of the handgun -- its possession at the place intended -- is lawful. The prospective buyer, moreover, would have to affirm not only that he is not among the disqualified classes of individuals listed in current law, but that he does not intend to transfer the handgun to a

person barred by any law from possessing the weapon. This provision is designed to provide a provable charge against "straw men" who purchase handguns with intent to sell or transfer them to third parties whose possession would be unlawful. Finally, the prospective purchaser would have to establish his identity through means required by the Secretary of the Treasury, and, in order to facilitate checking of the information supplied, would have to set forth the name of the chief law enforcement officer in any locality where the purchaser resides and where the handgun is to be kept.

To assure an opportunity for verification of the information supplied by the prospective buyer, the dealer is required to wait a period of up to 14 days before the sale of the handgun may be completed and the weapon delivered to the purchaser. The 14-day delay may, in itself, have some salutary effect. Surveys have indicated that there is a strong temporal correlation between handgun purchasers and illegal handgun usage, indicating that many handguns are purchased for the express purpose of engaging in criminal activity; a "cooling-off period" may therefore occasion some benefit by delay in acquisition alone. The principal purpose of the 14-day period, however, is to provide an opportunity for ascertaining the accuracy of the information supplied by the would-be purchaser. The dealer is required to check through the local police -- who would request an FBI "name check" of the purchaser -- to establish whether



he has a record of felony convictions or other disability that would disqualify him from purchasing a handgun. When the dealer receives from the local police the results of their criminal records check and a statement to the effect that the purchaser is not disqualified from possessing a handgun in the locality where he intends to keep the weapon, he may complete the transaction absent any reason to believe that the purchaser is acting as a "straw man" on behalf of a disqualified individual.

The local police are not specifically required by the legislation to give their full cooperative efforts in ascertaining the accuracy of the prospective buyers' statements. However, since assuring that persons with criminal records do not obtain handguns would be of direct and material interest to local police authorities, it is expected that virtually all municipalities will readily elect to take full advantage of the screening opportunities provided by the bill. Similarly, while the bill does not specifically require that the local police request an FBI name check of prospective buyers, it clearly would be in their interest to do so. A 1974 review of 2,000 purchase forms in the files of 12 dealers in one state revealed that 187 purchasers would have been identified as felons by a simple FBI name check and thus would have been found ineligible to purchase firearms. It is expected that local police would welcome the opportunity to take advantage of this simple screening technique.

It should be noted that, as is the case under existing law, the records of handgun transactions would be kept by the handgun dealers. The bill provides for no central registry.

In addition to providing a greater potential for preventing unlawful handgun sales, the bill also contains two new criminal provisions designed to aid in the enforcement of federal and local handgun control laws. The first would prohibit shipping firearms into or through a state where the shipment would violate state law, or shipping firearms in interstate or foreign commerce in violation of a law of the place of sale, delivery, or other disposition. This provision is similar to various other provisions in the federal law, and is designed to aid local law enforcement authorities by stopping illegal shipments in transit rather than having to wait for their arrival and mass distribution.

The second new criminal provision is one of particular importance. A recent study has indicated that although only two to seven percent of all handgun purchases are in violation of the law, approximately 58 percent of multiple purchases by single buyers are in violation of law. To help stem the problems suggested by the study, the Department of the Treasury recently has promulgated regulations requiring that dealers report multiple firearms sales. While this should provide assistance in tracing unlawful handgun purchasers, a change in the existing statutes would be particularly helpful.

Accordingly, H.R. 9022 would prohibit the sale to, or the purchase by, an individual of more than one handgun in any thirty-day period. This provision, in combination with the screening provisions previously referred to, should make it difficult for gun runners to make large purchases of handguns; the numerous trips to different areas and the evasive tactics that would be necessary to circumvent the legislation would make such illicit businesses economically unprofitable. For legitimate purchasers who have occasion to buy more than one handgun in a thirty-day period, however, exceptions to the prohibition would be provided under regulations established by the Secretary of the Treasury. This would permit multiple sales involving security agencies, estates, collectors, and others in similar special situations.

The third means by which a H.R. 9022 would seek to reduce the problems caused by criminal use of handguns is by the elimination of the availability of the Saturday Night Special.

As the term is generally used, "Saturday Night Special" refers to a cheap, highly concealable, inaccurate handgun that often is as inherently dangerous to the possessor as it is to the citizenry as a whole. It is of no value to a hunter. It is of no value to a competitive target shooter. It is usually of no value even to a self-respecting weekend "plinker". It is of far less value than a rifle or shotgun to a person who wishes to defend his home against a criminal intruder.

The only real value of a Saturday Night Special is to frighten and to kill. Indeed this is the use that has been made of it. In 1974 the Bureau of Alcohol, Tobacco and Firearms traced 4,537 handguns found to have been used in crimes in four major cities and found 70 percent of them were classifiable as Saturday Night Specials.

A substantial step in meeting the problems of Saturday Night Specials was taken by the Congress in enacting that portion of the 1968 law which bans the importation of such weapons. That step turned out to be insufficient, however, because although the law banned importation not only of completed weapons but of frames and receivers, it did not ban the importation of the other parts necessary to make Saturday Night Specials and did not ban their domestic assembly and manufacture. H.R. 9022 would seek to eliminate this loophole in the existing law by banning not only importation but the domestic manufacture, assembly, and sale of Saturday Night Specials.

There is, of course, a difficulty in defining with precision the kinds of handguns to be banned. Several possibilities have been explored. H.R. 9022 employs a variation of the factoring system designed by the Department of the Treasury to effect the current statutory ban on importation of handguns that have no legitimate sporting purposes.

This system, which was developed by the Department of the Treasury in consultation with several groups interested in the problems involved, has been modified in the bill in order to make the standards more effective from both a law enforcement and a sporting perspective.

Under the system set forth in the bill, in order to avoid falling within the prohibited category of handguns a pistol must have a manually operated safety, a height of at least four inches, and a length of at least six inches; a revolver must have a safety device sufficient to assure that the weapon will not fire if dropped, an overall frame length of at least 4 1/2 inches, and a barrel length of at least four inches. These basic standards will assure that no handgun may be produced or sold without basic safety features and without sufficient size to reduce the likelihood of concealability. In addition, however, a handgun passing the basic standards must be found to possess such additional features as enable it to accumulate a specified total number of points. Under the provisions of the bill, points are given for length beyond the minimum required, the use of stronger and safer materials in frame construction, each ounce of weight, additional safety features, and the existence of various items such as adjustable sights and target grips. The general purpose of these requirements is to assure the safety and legitimate sporting utility of handguns that are being imported, manufactured, and sold.



It should be noted that, unlike the system developed by the Department of the Treasury after passage of the 1968 Act to flesh out the "sporting purposes" test, the factoring system just discussed is included within the proposed statutory framework itself. This should assure that extensions or modifications of the standards cannot take place simply by administrative action, but must await specific action by the Congress.

The fourth means by which the bill seeks to reduce the problems occasioned by the criminal use of handguns is a somewhat more direct one. The bill would facilitate prosecution of felons found in possession of guns, and would insure the incarceration of those found guilty of using a gun in the course of another criminal offense.

The 1968 Act made it unlawful for felons and certain other persons to receive, possess, or transport firearms "in commerce or affecting commerce." The Supreme Court, in a divided opinion in United States v. Bass, held as a matter of statutory interpretation that in each case there must be a clear nexus between the possession and the interstate commerce. In practice this means that if a convicted felon is found to be carrying a handgun he may not be prosecuted unless the government can prove, for example, that he was carrying the weapon from one State to another. For all practical purposes, therefore, there is currently no effective federal prohibition against a felon's

possessing a firearm. The "receipt" portion of the statute does not provide an effective alternative, since it requires proof not only that the weapon was transported in interstate commerce but that it was received by the felon after 1968, and establishing both the date of the receipt and the venue of the receipt has presented major prosecutorial problems. The consequence of this Court interpretation has been to weaken considerably the effectiveness of the 1968 Act.

H.R. 9022 would remedy this problem by striking the language found to be ambiguous and by substituting in its stead a congressional finding that possession or receipt of a firearm by members of the statutorily prohibited classes constitutes itself a general burden on commerce. This would obviate the need to establish in every case a direct connection with interstate commerce. The rising rate of crime committed with firearms, and the special danger inherent in the possession of firearms by members of the proscribed classes of individuals, clearly would justify such a congressional finding. A similar finding adopted by the Congress with respect to the current loansharking statute was found by the Supreme Court in United States v. Perez to constitute a constitutionally supportable basis for the exercise of federal jurisdiction.

The 1968 Act also provided for special penalties to be imposed upon persons who use a firearm to commit another federal offense. The statute directs that a court must

impose a sentence of between one and ten years' imprisonment upon a first offender, and between two and twenty-five years' imprisonment upon a second offender. The statute does not, however, prohibit the court from suspending execution of the sentence to imprisonment if the defendant is a first offender. Consequently there is today no mandatory minimum sentence that must be imposed for an offender who has not previously been convicted under the same statute.

The Administration has submitted to the Congress an amendment to the Criminal Justice Reform Act, now pending as H.R. 3907 and as S. 1, which would impose a mandatory prison term upon persons convicted of using a firearm in the commission of a federal crime. The need for such a provision, however, is immediate. Accordingly, H.R. 9022 contains a provision that would make mandatory the imposition of a term of imprisonment for anyone using a firearm in the course of a crime. This would increase the certainty of sentences in such instances pending the congressional consideration and passage of the broader, more integrated provisions of the Criminal Justice Reform Act.

In addition to the provisions contained in H.R. 9022, there are other means of seeking to make more effective the federal efforts against firearms violators. Principal among them is the Administration proposal to establish special handgun task forces

in the nation's eleven largest cities -- task forces that will concentrate federal investigative resources upon the underground networks that have provided black market sources of weapons for use in crime. Under the proposal, the Department of the Treasury's Bureau of Alcohol, Tobacco and Firearms will increase the number of its agents by more than 50 percent; a total of 500 new agents will be assigned fulltime to stem the unlawful traffic in handguns in the designated metropolitan areas. The House Appropriations Committee has not yet scheduled hearings on the necessary funding, but it is hoped that such hearings may be held later this month.

The passage of the proposals contained in H.R. 9022, and their enforcement by an increased contingent of Treasury agents, will not eliminate the problem of the criminal misuse of handguns. But it will help to reduce the seriousness of the problem. It has the potential for saving lives and for reducing the level of fear in our cities. It offers the prospect of making progress in an area where progress has been very difficult to achieve. It warrants the careful consideration of this Subcommittee and of the Congress as a whole.

MATERIALS PREPARED BY DEPARTMENT OF JUSTICE STAFF FOR  
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A PROPOSAL FOR TRIGGERING AREA  
CONTROLS TO REDUCE THE CRIMINAL  
USE OF HANDGUNS

I. Introduction

The numerous writings and debates on the subject of controlling the criminal use of handguns have reflected two opposing views of the problem: either (1) that the control of the use of handguns is of sufficient national importance to require the imposition of comprehensive federal restrictions, or (2) that the magnitude of the problem is one so inherently dependent on local variables that it is best left to legislation by the states.

Between these two extremes lies a third position under which the federal interest, and consequently federal control, would manifest itself only if the criminal use of handguns in a given area reached such serious levels as to justify the conclusion that purely local efforts had failed and that federal assistance was therefore required.

The third approach is novel. 1/ The purpose of this memorandum is to outline its principal advantages and disadvantages and further to suggest a possible form that it might take. The form proposed is not a complete recommendation. The choice of the geographic areas triggered is generally considered to be unsatisfactory. However, that choice is inserted in the proposal because it is the only one on which the relevant data exists.

In addition to the proposed form, various alternatives are presented as to the main aspects of the triggering concept including several nationally applicable controls which could or should be joined with any regionally triggered approach.

II. General Advantages and Disadvantages of a Proposal Triggering Area Controls

There are two principal advantages to a proposal that imposes handgun controls in limited geographic areas after

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1/ There exists no known legislative precedent for such a program in this field. However, the concept of triggering mechanisms exists in such disparate areas as availability of small business loans and the timing of raises in federal pensions.



the occurrence of events triggering their application. First, since the problem is largely an urban one, the geographic area encompassed could be limited to the highly populated areas of the country where the need for the imposition of controls would appear to be greatest. This would leave unaffected the purchase, possession, or use of handguns in the rural areas. It is primarily in these areas where the handgun is valued by many as a legitimate and convenient means of self-protection against dangerous forms of animal wildlife and against potential human adversaries in regions of limited or non-existent law enforcement patrols. 2/ Second, since the triggering mechanism could be designed to distinguish between those urban areas where the problems caused by criminal use of handguns are severe, and those urban areas where such problems are not severe, a justification for controls on the basis of actual necessity can automatically be achieved. Consequently, a third practical advantage arises -- political opposition predicated in the past upon an alleged indiscriminate application of federal controls may perhaps be significantly reduced.

The principal disadvantage of a regional approach is one which has plagued previous attempts at localized gun control. It does not limit handguns in the uncontrolled surrounding areas from which the weapons may continue to flow. The criminal use of handguns is a national problem which exists to some degree or another in every city in the country. The programs that propose to deal with the problem on the local level or in isolated situations must, if they are to have any real effect, confront and overcome the basic fact of handgun mobility.

Critics of handgun control in general have often pointed to the experience in New York City under the Sullivan Law -- a law frequently referred to as the nation's strictest handgun control legislation. As of 1971 that city had 24,354 registered handguns. Of that number, all but 564 were required as

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2/ It would, however, be a mistake to assume that such concerns are limited to rural areas. Central cities have high gun crime rates and there is an understandable desire in these areas for some form of self-protection. During the course of the current gun control hearings in the House several black witnesses have expressed fears about the reaction among black people to gun restrictions. These same persons have recognized the concept that reliance on guns for protection is ultimately misleading but also recognized the fact that this may be a difficult matter to prove to one who feels his life is in danger in his own neighborhood.

a condition of employment. Yet estimates of actual handgun ownership in New York for the same period range up to 1,000,000. A factor regularly cited for this disparity is the easy availability of weapons in other jurisdictions. 3/ Data from other cities suggests that the New York experience is not unique. Whether the handgun mobility factor can be overcome to any significant degree simply by extending controls from the immediate political boundaries of the city to the surrounding metropolitan area is highly doubtful. The extent of the mobility of our society suggests that it may not. If localized controls were triggered, they could still be circumvented by anyone willing to make a trip beyond the boundaries within which the controls applied. 4/

If, however, concurrently, a nation-wide system of handgun owner licensing were passed, the mobility problem would be reduced since handguns would not be available legally to residents of the proscribed areas no matter where they travelled. While "straw man" purchases in uncontrolled areas could not be prevented, they could be made a dangerously high criminal risk.

In short, the principal advantage of a regional gun control program is that it would affect only those municipalities having a demonstrable need for it. Its principal disadvantage is that by leaving a large portion of the country uncovered, there would be a flow of weapons into the controlled metropolitan areas which would be difficult to stop. However, violent crime does pose an immediate threat to many populous parts of the country. It further appears that a localized, automatically triggered system of handgun control may have the best chance of congressional acceptance. Such a system would seem capable of providing a certain measure of relief. Thus the development and implementation of such a program appears to be worth a serious effort.

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3/ In addition bureaucratic difficulties commonly encountered in the New York licensing process as well as the general reluctance of owners to register weapons must also be regarded as contributing factors.

4/ Moreover, there exists the possibility that under any system short of a ban on manufacture, importation, and sale, the traffic in guns would become a major enterprise of organized crime. The triggering approach would be especially subject to such a danger since there would be no restriction on the number of guns available for sale or theft outside the triggered areas.

### III. A Suggested Form of Proposal for Triggering Area Controls

#### A. The Controls to be Triggered

There are a wide variety of options for the control of handguns. Each of these of course could form the basis of a geographically triggered program. Licensing of owners, registration of handguns, banning "Saturday Night Specials", prohibiting sales and transfers of handguns, and prohibitive possession of handguns are among the alternatives which have been debated. To the extent that the triggering is considered to amount to a federal declaration of crisis in a particular geographical region it would appear that the most stringent measures should be employed. Registration and non-restrictive licensing would require too long to make an impact. A ban on the possession of handguns in public places, and on the sale or transfer of handguns or handgun ammunition in the controlled areas, would seem the only action commensurate with the gravity of the crisis declared.

A control proposal is presented below in broad outline. It is intended to provide the highest possible effectiveness in terms of crime control while avoiding the breadth of potential coverage that in the past has generated such vehement opposition. In addition to the recommended proposal various alternatives to its main ingredients are set forth at the end of each subsection.

The suggested proposal would prohibit, in the geographic areas where the controls are triggered, possession of handguns outside the home or place of business with exceptions to be granted only to those who meet the standard established under highly restrictive licensing provisions. Handguns used in target shooting would have to be arsenalized at licensed ranges. Necessary movement of handguns (to an owner's new residence, for instance) would require a special permit from local police valid for only a matter of hours. The sale or transfer of handguns would be prohibited in the triggered area, as would importation of handguns into the area. The sale or

transfer of handgun ammunition would also be prohibited. Thus to some extent the problems presented by handguns already possessed in the area would be reduced.

Law enforcement officers and others (e.g., bank guards) exempted as a class from these provisions would have to purchase their weapons or ammunition through police departments. It is assumed that most people who believe they require a handgun for protective purposes would acquire one prior to the imposition of the triggered controls. However, the proposal would not prevent such persons who had not previously obtained a defensive weapon from purchasing and possessing long guns.

Coupled with these prohibitions would be a purchase program under which the federal government would offer to purchase existing handguns in controlled areas at fair market value. Such a program which it is hoped would help to reduce the existing handgun arsenal. In addition, in the case of handguns that owners desire to retain as souvenirs, the government would offer to have them tendered inoperative by competent gunsmiths at government expense. In addition perhaps a state sponsored handgun safety training program -- to be attended by handgun owners on a voluntary basis -- would profitably be offered. The opening of military facilities for such a program or for target shooting might have some slight tradeoff advantage.

The penalty for violation of the regulatory provisions (simple possession in an unauthorized area, failure to obtain a license, improper transfer) would be a \$500 civil penalty for each weapon for the first offense; 5/ a criminal penalty of three to six months incarceration for a second offense, 6/ and a criminal penalty of one to three years incarceration for

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5/ Use of civil as opposed to criminal penalties removes the problem of criminalizing a large segment of the populace. Such criminalization is inherently dangerous to the general program of law enforcement and might lead to considerable resentment by those who sincerely believe that there is nothing inherently improper in handgun ownership.

6/ Grading most federal offenses to the misdemeanor level might enhance their effectiveness since ease and speed of enforcement would be increased and the citizenry might see the penalties as more closely reflecting the seriousness of the offense. Much like the marijuana laws and the former prohibition laws, harsh penalties in the handgun control area might lead to non-enforcement and ineffectiveness rather than a general deterrence. Of course, the misdemeanor, as noted above, would be applied only to the regulatory aspects.

a third offense. Importation of handguns for sale in the restricted area would also carry a one to three year criminal penalty. Strict application and expedited enforcement machinery, involving the presentation of cases before United States Magistrates (who currently have misdemeanor jurisdiction), should assure maximum possible deterrence.

The program would be enforced by the Bureau of Alcohol, Tobacco and Firearms of the Treasury Department as are the majority of current federal handgun control programs. 7/

#### 1. Alternative Controls

As previously noted the form of controls applied could consist of any of the various options considered in terms of non-triggered controls. These options and the way they they might be implemented in a triggered program are discussed below.

##### a. Restrictive Licensing.

A program of restrictive licensing allowing sales to and possession by persons demonstrating a need could be triggered. The main disadvantage would be that handguns would then be commercially available in the triggered area without even the inconvenience of travelling to a non-triggered area. This disadvantage in a properly administered area would be slight since the restrictions placed on the granting of a license would serve to reduce the sale of guns to a trickle and "straw man" sales would presumably be rather infrequent. The chief advantage would be that persons having a real need to possess handguns would be able to do so. Determining the criteria to establish need would, of course, be difficult and subject to criticism from all points of view.

##### b. Non-restrictive Licensing.

Non-restrictive licensing would permit purchase and possession of handguns in the triggered area by all but specified classes of persons. Presumably such a program would include name checks and waiting periods thus assuring to the

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7/ Some members of Congress will want to have any new federal handgun control program enforced by the FBI. If the Treasury is given adequate enforcement manpower, there appears no particular need for concurrent FBI handgun control jurisdiction.



highest degree possible that disqualified persons do not purchase handguns. As with all licensing programs this one would permit an easily provable criminal charge against non-licensed possessors. The non-restrictive licensing program has a special advantage to it in that it would not punish the vast majority of gun owners and purchasers who do not misuse their weapons. The disadvantage would be the ease of surrogate purchasing and the continuingly heavy flow of commerce in guns. Since most major cities have licensing programs now there is considerable room for doubt as to whether a non-restrictive licensing program administered by the Federal government in selected areas would have any greater effect on the gun crime rate in those cities.

#### c. Registration of Handguns.

A registration program would require either all handguns or all newly purchased handguns to be registered by serial number, make and model of weapon, and initial purchaser. A transfer notice provision could also be included so that secondary sales could be traced. However, such a program depends almost entirely on voluntary compliance with the exception of guns sold by dealers. The effect of such a program would be to render a certain number of guns used in crimes traceable at least to the owner of record. While there is some law enforcement value in such a program the overall effect is not likely to be significant.

#### d. Tax on Gun Ownership or Purchase.

A tax could be levied in the triggered area on the possession or ownership of handguns. The tax could be based either on a strictly confiscatory basis or on a social cost basis. A tax on possession would inherently be dependent upon the level of voluntary compliance and, if administered by the Federal government, would be of dubious constitutionality since it would be a direct tax not apportioned according to population among the states. A tax on sales might have some efficacy in limiting new sales but would not, of course, reduce the existing arsenal.

#### B. The Geographic Areas in which the Controls are to be Triggered

For purposes of this proposal the Standard Metropolitan Statistical Areas (SMSAs), as defined by the Office of Management and Budget, are adopted as the geographic areas for potential handgun control. There are several reasons for

using this classification, including its ready availability and its use by the FBI in compiling violent crime statistics. Of more importance is the fact that these areas all include a core city of 50,000 or more and therefore fall into a somewhat urban category. Moreover, they have been precisely defined in terms of their political boundaries, and the statistical bases developed for these areas provide a way to estimate the impact of the program proposed.

However, while having some strong virtues, it is possible that these areas may not prove to be satisfactory. For instance they distinguish between Washington and Baltimore and between Newark and Paterson-Passaic. For crime purposes, and for the importance of handgun controls, these areas might properly be joined. Moreover, it can be argued that it would be better to have areas based on large geographic regions in some instances larger than a state (i.e., Rhode Island and Southern Maine and New Hampshire arguably should be joined with the Boston area in order to provide control of handgun availability).

There are other considerations which mitigate against using SMSAs. First, these areas have been developed for statistical purposes and their use in a gun control program would give them political connotations which would be regarded as undesirable by other agencies who use the SMSAs. Second, the SMSAs are not themselves permanently fixed. They are constantly redefined on an annual or biennial basis. Areas added to them are generally of low population density. Third, communities surrounding the core city may have significant political strength and may be opposed to being lumped with the core city for gun control purposes.

#### 1. Alternative Areas.

As noted there are several alternatives available. However none of these alternatives possess the joint characteristics of existing definition and uniformly collected crime data that the SMSA's do. The problems of drawing boundaries and establishing data systems are likely to take a considerable amount of time to resolve in any of the alternatives listed below.

##### a. Core City Plus Given Radius.

This proposal would establish new geographic areas defined as the core cities of more than a given population plus the areas encompassed by a circle having a radius of a given mileage. Such a radius would ignore political boundaries and make data collection more difficult but that problem could

be partially resolved by pulling in any political jurisdiction which is even partly within the circle. The radius would be arbitrary and thus would ignore obvious geographic and demographic factors and in some instances would cover large areas of rural communities while in others barely reaching the heart of the suburbs.

#### b. Population Density Areas.

This program would establish the areas in terms of population density. Thus the core city would be covered and the areas surrounding it up until such point as the population fell below a certain density. Such a plan would likely be difficult to devise and would have the same problems of ignoring geography and demography as the previous proposal. Gaps in population density caused by lakes, mountains, industrial areas, and farm or resort communities would distort the overall picture.

#### c. Independent Evaluation.

This program would require starting from scratch and examining the area surrounding all central cities of a given population. Guidelines in a statute would require that the area to be included be evaluated in relation to population density, geographic features, political boundaries, transportation patterns, commercial relationships, and so on. The likely result according to those familiar with the development of the SMSA's is that those areas would be largely duplicative of the SMSA's. One has only to think of the difficulties and years spent so far in implementing the "one man one vote" decisions to realize that the development of this system might be a decade or more in the offing in any final form.

#### d. Opt In System.

Such a system would allow local communities defined in terms of SMSA's to opt in which a given percentage of their total population approved or when the governing legislative bodies representative of that percentage of the population gave their approval. Obviously such an opt in plan would cause serious dissension in many communities. The knowledge that such dissension might arise in their communities is liable to cause politicians to doubt the political value of a regionally triggered approach.

#### e. Elimination of some SMSA's.

This program would follow the recommended approach but would eliminate SMSA's with a core city of less than 100,000

or with a total population of less than 250,000. The result would be to eliminate some of the rurally oriented SMSA's and thus enhance the political viability of the concept.

### C. The Triggering Mechanism

There are innumerable potential triggering mechanisms. Of the ones considered, two appear to have the greatest validity. They are (1) the rate of violent crimes committed in the SMSA; and (2) the rate of certain selected criminogenic factors.

For purposes of the suggested program the former option is adopted. One reason is the ready availability of the data. Another is that the use of criminogenic factors presents problems independent of statistical unavailability -- they are predictive in nature and thus less certain and more open to challenge than past crime rates. In addition, compilation of this data would be cumbersome and time consuming, and an effective trigger program must be one that can be readily and swiftly implemented.

A further question exists as to how long a given crime rate must be sustained before a triggering takes place. Crime rates vary seasonally. Warm weather provides greater opportunity and motivation for criminal activities. It would seem to follow that the triggering mechanism would have to be based on an annual figure at least. Since temporary economic or social conditions (i.e., the social turmoil after the assassination of Dr. Martin Luther King, Jr.) might unrealistically inflate an annual rate, a rate based on two or three consecutive years might be more appropriate. However, such a figure would either delay implementation after enactment or require that the trigger be based on preenactment data which might negate the political advantages of the proposal.

Considering all of the above factors, it is suggested the triggering mechanism be based on the violent crime index (as established by the Uniform Crime Reports) for one full year. The violent crime index includes murder, aggravated assaults, robberies, and rapes.

When the violent crime index in an SMSA for any given year after passage exceeds the national average by 10 percent and exceeds the rate in the SMSA for the previous year by 5 percent, or when the area's rate for the previous year is 20 percent above the nation's average, the controls would be triggered. Such a system reflects a rate of violent crime in excess of what can be considered nationally acceptable and a rate in a particular locality which shows signs of increasing.

A possible option would permit an SMSA to opt out of the triggered controls. During the period of the application of the controls, a one-time referendum would be permitted upon presentation of a petition containing signatures of five percent of the voters in the SMSA. Upon support by a simple majority of those voting in the referendum, the controls would be lifted.

# 1. Alternatives Triggering Mechanisms.

Within the main option considered (rate of crime in the geographic area) there are several alternatives available. Each one of them is somewhat arbitrary as is the proposed mechanism. Some are capable of ready testing against past experience to determine probable future effect and thus political viability.

## a. Rate of Handgun Crimes.

The violent crime rate does not distinguish between handgun crimes and longgun crimes and in some instances the figure do not even breakdown according to gun or other weapon. Thus a trigger based on handgun crimes while more logically connected to the evil sought to be corrected would require the establishment of a new data system. Moreover, it can fairly be assumed that violent crime statistics bear a fairly constant relation to handgun crimes, so a separate data system might not yield different results.

## b. Average Rate System.

The proposed system is tied partially to national averages and partially to increase in rates. This alternative would instead consider a geographic area only in terms of its being above the national average rate and its increase also being above the national average rate of increase in the base year. While possessing certain logical advantages this system is somewhat confusing in dealing in terms of average rates and public understanding of how the system works might thereby be impeded.

## c. Regional Triggering on a National Rate.

This system would trigger major metropolitan areas when the national rate reached a given point. While having the advantage of triggering all major areas at once the system would effect areas which had no special need for triggering.



#### d. Escalating Controls.

This system would establish several triggers which when reached would require the imposition of a graduated group of controls. At a given local crime rate registration would take effect. At a somewhat higher level, licensing would be imposed. At the highest level a ban on sale, transfer, or possession could be triggered. While the idea has the advantage of seeing how lesser controls work before greater ones are imposed it is administratively cumbersome and inherently slow in taking effect.

#### e. Nationwide Triggering.

Under this program a given national crime rate would trigger nationwide controls. Obviously this concept would destroy the political advantages of the triggering concept. Some variations might be politically acceptable though. Thus a ban on Saturday Night Specials or the imposition of a non-restrictive licensing program might be triggered on a national basis.

#### D. The Duration of the Application of the Controls Triggered

Assuming that controls have been triggered in a given area, it would seem important that the proscription be in force for some extended period of time both to avoid the rapid removal and reimposition of controls and to permit the alleviation of the factors which caused the crime rate to rise so high initially. The civil rights field provides a precedent wherein the voting rights provisions requiring strict federal supervision of election law changes were imposed for renewable ten-year terms.

The control period proposed is the longer of (1) five years, or (2) until such time as the violent crime rate in the SMSA falls below the national average for two consecutive years. A five-year period was felt sufficiently long to avoid a "bouncing ball" effect, and the alternative tie to the violent crime rate would assure that the controls are not prematurely lifted.

#### IV. Supplementary Nationwide Measures to be Considered

A. It is recommended that the following measures be considered as supplementary to the area triggering proposal:

(1) A national ban on "Saturday Night Specials;" possibly combining a regressive tax to drive up the price of all handguns to a \$100 level with a handgun overall length requirement to reduce concealability;

(2) A nationally applicable transfer notice provision to insure that outside the triggered control areas secondary sales are not made to prohibited classes of individuals;

(3) An amendment to the current federal criminal offense of using a firearm in the course of another federal offense (18 U.S.C. 924(c)) to render that provision more effective and to make the special lengthier sentencing provisions more likely to be applied.

In the same manner restrictions could be placed on plea bargaining, concurrent sentences, and bail.

(4) Model state legislation could be drafted and its enactment levered by use of LEAA funds.

(5) All seized firearms could be required to be destroyed. Present practice varies from jurisdiction to jurisdiction. Such a program could be implemented by a federal statute forfeiting all guns possessed in violation of state law.

B. The following supplementary measures could also be considered, although they would jeopardize the political acceptability of the basic proposal:

#### 1. National Non-restrictive Licensing and Registration.

This measure would involve a nationwide federal system of non-restrictive licensing and registration which would serve to render handguns traceable to the record owners and which would place some enforceable restrictions on the ownership, or at least purchase, of handguns. In triggered areas, of course, the more prohibitive controls would be imposed. In all areas photographing and a waiting period and identify check could be imposed.

The principal advantage of this potential addition to the basic proposal is that it reduces the problem of handgun mobility.

The chief disadvantage of this potential addition is that it would not reduce the number of handguns in private possession nor would it assure that the number of new handguns constantly being added to the nation's arsenal would be reduced. 8/

## 2. Nationally Triggered Nationwide Restrictions on Manufacture and Importation

If the handgun problem can be seen to be in part at least a result of the over-abundance of such weapons then an effective means of combating the problem without directly confronting the consumer would be to trigger reductions in their manufacture and importation. For example, for every given rise of a certain level in the national rate of violent crime committed with firearms there might be parallel restrictions on the importation and manufacture of handguns. The net effect of such a program would be to reduce the number of weapons available in a manner proportionate to the violent crime level.

There are several problems with such a program. Strong opposition could be expected from handgun manufacturers, although imposing the reductions first on imported weapons might alleviate that opposition. Also, such a program might be seen as succeeding only in reducing supply to an ineffective degree, driving up the price of existing handguns and leading to a black market in handguns and an increase in handgun thefts. Moreover, even if potentially effective in achieving its purpose, the program would have to be in effect for a considerable period before the results would be reflected in a reduced crime rate. At best it would result in an equilibrium in the number of handguns or in a reduction of the stockpile by the attrition factor (estimated to be .6 percent a year).

## V. Conclusion

An area triggering proposal would have sufficiently potential effectiveness to justify its employment especially when coupled with other proposals. Specifically, such a program would have potential value when joined with nationwide non-restrictive licensing and a national ban on "Saturday Night Specials." It has, moreover, a potential political acceptability that past proposals have failed to achieve.

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8/ It might be expected that supply and demand would have some effect on the number of new handguns added if triggering of area controls were to be widespread. It is unlikely, however, that any resulting reduction in manufacture and importation would reach the 2,000,000 per year level required to reach equilibrium in the gun supply.

MEMORANDUM ON THE PROBLEM OF THE CRIMINAL  
USE OF HANDGUNS

March 26, 1975

MEMORANDUM ON THE PROBLEM OF THE CRIMINAL  
USE OF HANDGUNS

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MEMORANDUM ON THE PROBLEM OF THE CRIMINAL  
USE OF HANDGUNS

The purpose of this memorandum is to review the problem of the criminal use of handguns, the underlying factors involved, the controversy concerning the matter, the potential approaches to alleviate the problem, and the constitutional considerations involved in those potential approaches.

I. The Nature of the Problem

The rate of violent crime in the United States is high and becoming higher. A large proportion of the violent crime committed each year is accomplished through the use of handguns. 1/

A. Homicides

Of the 19,500 homicides in the United States in 1973, approximately 54 percent were committed with handguns; only five percent were committed with rifles and seven percent with shotguns. Of the 120 policemen killed in 1973, approximately 72 percent were killed with handguns.

B. Aggravated Assaults

Approximately one out of four aggravated assaults is committed with a firearm -- most of these with handguns. Of the 416,000 reported aggravated assaults in 1973, over 90,000 were committed with handguns. When unreported aggravated assaults are included, the total number of such assaults committed with handguns appears to be closer to 250,000. 2/

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1/ Although it is beyond the focus of this memorandum, it might be noted that each year there are approximately 600 accidental deaths and 5,000 accidental injuries caused by the discharge of handguns, and that each year more than 5,000 persons commit suicide with handguns. Newton and Zimring, Firearms and Violence in American Life, pp. 30-32, 133-37 (1969). National Safety Council figures would suggest that these numbers should be doubled.

2/ The figure of 416,000 reported aggravated assaults appears in the FBI's Uniform Crime Reports for 1973. Studies by the Law Enforcement Assistance Administration indicate that only 30 percent of aggravated assaults are reported to law

Footnote continued

In assaults in which a firearm is used, the victim's chance of survival is only one-fifth as great as it would have been were the weapon a knife. 3/

### C. Robberies

An estimated one third of all robberies involve the use of handguns. Of the 382,000 reported robberies in 1973, approximately 127,000 involved handguns. Including unreported robberies, the total involving handguns is probably closer to 200,000. 4/

Preliminary studies indicate that the proportion of violent crime committed with handguns, as opposed to other weapons, is increasing at a steady rate. 5/

## II. Factors Contributing to the Problem

### A. The Extensive Private Possession of Handguns

Firearms have played an important part in American history, having been indispensable to the early explorers, the colonialists, and the frontiersmen alike. As the nation developed, the inhabitants of the sparsely-settled continent continued in their need for weapons as implements of provision and protection. Until recent decades, the overwhelming number of Americans still lived in rural areas, where gun ownership was nearly universal.

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2/ Footnote continued enforcement authorities. In combination, these figures indicate that there were in fact approximately 1.35 million aggravated assaults in the United States in 1973. Preliminary studies indicate that aggravated assaults in which firearms are employed are no more apt to be reported to police than other aggravated assaults.

3/ Newton and Zimring, supra, at 41.

4/ The Uniform Crime Reports list 382,000 reported robberies for 1973; the LEAA figures indicate that the actual number of robberies was approximately 600,000.

5/ See Zimring, Firearms and Federal Law; The Gun Control Act of 1968, Journal of Legal Studies 133, 172 (1974).

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Today gun ownership remains common. About 49 percent of American households have one or more (averaging 2.24) guns -- approximately 33 percent have shotguns, 29 percent rifles, and 20 percent handguns. 6/

The total number of firearms now in private possession in the United States is estimated by the Department of the Treasury to be approximately 135 million. (See Appendix A.) Of these, about 50 million are rifles, 45 million are shotguns, and 40 million are handguns. The handguns in private possession range from poorly constructed, inaccurate, and occasionally dangerous weapons designed to sell for as little as 15 or 20 dollars (commonly known as "Saturday Night Specials"), to sophisticatedly designed, well machined, highly accurate target pistols worth several hundred dollars. Specially engraved models, commemorative pieces, and collectors' items often exceed a thousand dollars in value. The number of privately owned handguns is growing at the rate of approximately two and one-quarter million a year.

The reasons for firearms ownership today are varied. About one-third of all firearms owners report that they own guns principally for purposes of self-protection; most of the remainder list hunting and target shooting as the primary reasons for ownership. Since handguns are not designed for hunting purposes and since in most states hunting by handgun is prohibited for humane reasons, it is probable that a relatively small number of handgun owners, as opposed to long-gun owners, would list hunting as a reason for their possession of such weapons. Some hunters do, however, carry a handgun as a precautionary, defensive measure, as do so hikers and others engaged in outdoor activities in remote areas. A number of persons own handguns for purposes of competitive target shooting or occasional informal target shooting -- "plinking" -- at tin cans and other make-shift targets in rural regions. Some -- the number is estimated to be as high as two million -- are collectors. It is suspected that a great many persons possess handguns simply because they were among the possessions of a deceased family member. The majority of handgun owners, however, probably would assert that

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6/ Newton and Zimring, supra, at 6.



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personal protection against potential criminal adversaries is the primary reason for their possession. 7/

B. The Usefulness of the Handgun in the Commission of Crime

As has been observed, the handgun is employed far more frequently than any other weapon in the commission of crimes of violence. It is uniquely useful for such purposes, especially in urban areas. Handguns as a class are eminently deadly weapons, capable of expelling from five to fifteen rounds in a matter of seconds and subject to rapid reloading; they can expend their deadly force over a distance that provides the user with a measure of personal safety and insurance against effective retaliation from any victim who is not armed with a firearm; and yet they are sufficiently small to permit concealment under outer clothing so as to make the carrier of such a weapon indistinguishable from unarmed individuals. It is this combination of deadliness, long distance accuracy, and concealability, that makes the handgun unique among weapons. While a rifle, because of the higher average power of its cartridges, is more deadly, and while a rifle may be used effectively over a longer distance, an individual walking about city streets with a rifle would rapidly become a focus of attention. 8/ While a knife is more easily concealable,

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7/ See generally, Newton and Zimring, supra, at 61-68.

As a general matter, a shotgun is usually considered a more effective defensive weapon than a handgun. However, the value of any firearm as a means of effective defense in the hands of an average householder is open to some question -- confrontations by robbers usually occur too swiftly to permit defensive counter-measures. In addition, the chance of a firearm becoming the cause of an accidental injury of a member of the household appears to be significantly greater than the chance of the firearm being employed against a criminal intruder. A study in Detroit revealed that more accidental gun deaths occurred in homes in one year than householder killings of robbers and burglars in four and one-half years. Id. at 30-31, 62-64. The sense of security that possession of a firearm affords a householder, however, may provide an unquantifiable benefit that more than outweighs the risk.

8/ Of 355 guns confiscated in the course of arrests in Baltimore since January, 1974, only 13 were longguns despite the fact that longguns are more likely to be seen and therefore seized. These figures appear to confirm the obvious assumption that there is a reluctance on the part of persons committing crimes to carry a weapon that is openly visible.

its successful employment requires a clearly higher order of determination and a physical strength; its use necessitates a proximity to the victim that subjects the knife wielder to defensive attack; and its effectiveness for purposes of inflicting death is one-fifth that of a firearm. 9/ If handguns were not available for criminal use, several studies indicate that fewer crimes of violence would take place rather than that the same number would take place with other weapons being substituted for handguns. 10/ It appears clear that

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9/ Zimring, Is Gun Control Likely to Reduce Violent Killings?, 35 U. Chi. L. Rev. 721, 728 (1968).

10/ See Newton and Zimring, supra; Etzioni and Remp, Technological Shortcuts to Social Change, pp. 106-107 (1973); Wolfgang, Patterns in Criminal Homicide, p. 79; Seitz, Firearms, Homicides and Gun Control Effectiveness, 5 Law and Soc. Rev. 595 (1972); Geisel, Roll, and Wettick, The Effectiveness of State and Local Regulation of Handguns; A Statistical Analysis, 1969 Duke L. Jour. 647.

A series of studies by Morris, Zimring, Block, and their colleagues at the University of Chicago, has been conducted over the past decade to delineate the specific contribution that handguns make to crime. The studies have examined three aspects of this contribution. First, they have attempted to differentiate between handguns and other weapons in terms of the probability of an assault having lethal consequences. Second, they have attempted to determine how much of the increase in crimes of violence is an increase in crimes involving handguns as opposed to crimes not involving handguns, over and above any increase that would be projected on the basis of age, racial, social class, or other demographic changes within particular populations. Third, they are beginning to trace the consequences of the introduction of differing numbers of handguns into a population to evaluate the effects of changes in the incidence of handgun ownership. Although the studies have not yet been completed, the researchers report that, on the basis of the accumulated results, it is fair to conclude that there is substantial evidence supporting the hypothesis that handguns make an independent contribution to the increase in the number of homicides, and other crimes of violence, even after taking into account other correlates of such crimes, such as race, age, sex, social class, and geography. (A preliminary report of the early facets of the study has been published. Block and Zimring, Homicide in Chicago, 1965-1970, 10 Jour. of Research in Crime and Del. 1 (1973).)

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without handguns fewer deaths would be occasioned by violent crimes. 11/

C. The Ineffectiveness of Existing Controls on Criminal Misuse of Handguns

Several attempts have been made by the Congress and by state legislatures to develop means of controlling the criminal misuse of handguns. Approaches have differed and enforcement priorities have varied, but the effectiveness of the attempts has uniformly been insufficient to achieve a lasting, material reduction in the incidence of such criminal misuse.

1. General Kinds of Controls that have been Employed

a. Licensing Owners.

One common means of attempting to control the criminal misuse of handguns is to limit the possession of handguns to persons who may be expected to employ them only for legitimate purposes. Under laws employing such an approach, an individual generally is required to obtain a license from a governmental authority before he may lawfully purchase or possess a handgun. Under a non-restrictive licensing system, the applicant must demonstrate only that he is not within any of the classes of individuals prohibited from obtaining a license; under a restrictive licensing system the applicant must demonstrate, in addition, a special need for possessing a handgun. Licensing systems have the advantage of being a preventive approach -- screening out potentially criminal users prior to their acquisition of handguns. 12/ Such systems have

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11/ One recent study concludes that a ten percent reduction in handgun density could result in a 27.4 percent reduction in the homicide offense rate. Phillips, Votey, and Howell, Handguns and Homicide: Minimizing Losses and the Costs of Control (mimeographed pre-publication copy, p. 15.)

12/ In addition, this approach supplies, as do the following two approaches, a readily provable count that may be employed against a felon found to be in violation of handgun control regulations as well as in violation of more basic criminal statutes. In many cases, such a count may be the only one on which a conviction can be obtained.

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the disadvantage of a certain degree of arbitrariness in defining the excluded groups and, if a restrictive system is employed, in defining what constitutes an adequate need.

b. Restricting Areas or Manners of Possession.

Another common approach is to limit the areas in which handguns may be possessed or to limit the manner in which handguns may be possessed in such areas. Usually such laws prohibit the carrying of handguns within city limits or the concealed carrying of handguns. This approach is also preventive in nature, in that it seeks to preclude the clandestine introduction of handguns into areas in which they might most advantageously be employed for criminal purposes.

c. Registering Handguns.

A third approach is to require that handguns be registered as the property of their owners. This approach is primarily remedial in nature in that it permits law enforcement authorities, upon the discovery of a handgun that has been used in a crime, to identify the last record owner of the handgun. The primary value of the approach thus lies in its assistance in criminal investigation. It may, however, also have some preventive value to the extent that the employment of a registration system encourages record owners to be more responsible in the handling and storage of handguns and more hesitant to transfer them to individuals who are not licensed to possess them. A variation of a registration system is a transfer notice system which, instead of requiring all current possessors of handguns to register them with law enforcement authorities, requires recording of information concerning such handguns only at the time the weapon is transferred from one individual to another. This variation, of course, is also primarily a measure to facilitate criminal investigation.

d. Punishing Criminal Misuse.

A fourth approach is the most direct one -- punishing an individual for using a handgun to commit a criminal offense. This approach may be accomplished by including the use of a handgun as an element of a criminal offense and attaching to such offense a higher potential penalty than is attached to its counterpart in which the use of the handgun is not an element of the offense (for example, the offense of armed robbery as distinct from the offense of robbery); by making the use of the handgun an aggravating factor that permits the imposition of a higher penalty than

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would otherwise obtain for the basic offense committed (special offender sentencing); or by defining the use of a handgun in the course of another offense as a separately prosecutable and separately punishable offense in itself. The advantage of the approach is that it focuses directly upon the heart of the problem -- the criminal misuse of handguns -- and causes no collateral inconvenience to those possessors of handguns who do not misuse them. The disadvantage of this approach is that, since it is dependent upon the efficacy of the criminal justice system, it suffers from the same inadequacies as the criminal justice system as a whole. While this approach is obviously remedial, to the extent that the criminal justice system in which it is employed is sufficiently effective to produce a deterrent impact, it is to that degree preventive.

## 2. Existing Kinds of Controls

### a. Existing Federal Controls

The existing federal firearms laws generally are of a regulatory nature, governing the importation, manufacture, and interstate shipment firearms of various kinds. <sup>13/</sup> An exception to the regulatory concentration is the provision creating a separately punishable federal offense for the use of a firearm in the course of any other federal felony. The federal enactments that currently are in effect are the following:

The National Firearms Act of 1934, as amended <sup>14/</sup> This Act requires the registration <sup>15/</sup> of, and

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<sup>13/</sup> The limited focus of existing federal laws and the considerably more direct and stringent laws of most foreign nations have invited several comparisons suggesting a cause-effect relationship between strict national handgun laws and low violent crime rates. See e.g., Etzioni and Remp, *supra*, at 135-141. Some writers have suggested, however, that the international differences may be explained as readily by cultural factors which are not subject to alteration by law. See Hardy and Stomply, Of Arms and the Law, 51 Chi-Kent L. Rev. 62, 82 (1974).

<sup>14/</sup> Over 1,300 violations of this Act were referred to the Department of Justice for prosecution in 1973.

<sup>15/</sup> The compulsory registration system was found to be in violation of the privilege against self-incrimination in

Footnote continued



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the payment of a \$200 tax on transfers of, sawed-off rifles, sawed-off shotguns, and machine guns, as well as molotov cocktails and other destructive devices. The Act also provides for a central registry of weapons within its purview.

The Mutual Security Act of 1954, as amended. This Act authorizes the President to regulate the import and export of firearms. Regulations issued by the Department of State and the Department of the Treasury in implementation of the Act require persons engaged in the importation of and exportation of munitions to register and to keep records. The Act serves essentially as a control for foreign policy purposes.

The Omnibus Crime Control and Safe Streets Act of 1968. 16/ Title VII of this Act makes unlawful the receipt, possession, 17/ or transportation in commerce of

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15/ Footnote continued  
Haynes v. United States, 390 U.S. 85 (1968), because it required registration almost exclusively by those in illegal possession of weapons and permitted prosecution on the basis of the information supplied. Congress corrected this defect by extending the registration obligation to all possessors of such weapons -- legitimate or otherwise -- and by enacting a use-immunity provision applicable to data gathered under the registration provisions. See 26 U.S.C. 5848.

16/ Almost 1,000 violations of this Act were referred for prosecution in 1973.

17/ The Supreme Court has held, as a matter of statutory interpretation, that there must be a clear nexus between the possession and interstate commerce -- for example, that the gun possessed was in the course of moving in interstate commerce at the time of the offense. See United States v. Bass, 404 U.S. 336 (1971). For all practical purposes, therefore, there is no federal prohibition against a felon possessing a firearm. The "receipt" portion of the statute does not provide an effective alternative, since it requires proof not only that the weapon was transported in interstate commerce but that it was received by the felon after 1968, and establishing both the date of the receipt and the venue of the receipt has presented major prosecutorial problems.

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firearms and destructive devices by specific classes of persons, including felons, mental incompetents, and aliens unlawfully within the United States.

The Gun Control Act of 1968, as amended. 18/  
This Act contains several provisions designed to regulate commerce in firearms and other weapons. 19/

All firearms importers, manufacturers, and dealers are required to be licensed under regulations promulgated by the Secretary of the Treasury. Licensed parties are required to keep records concerning their receipt and disposition of firearms and ammunition and to permit access to their business premises by enforcement agents. The records they are required to keep may be made available by the Secretary to local law enforcement officials.

Domestic manufacturers are not restricted by the Act in the kinds of handguns they may produce. Importers may not introduce handguns into the country without a permit issued by the Bureau of Alcohol, Tobacco, and Firearms, and such permits are issued by the Bureau only for handguns that are able to meet regulatory standards concerning barrel length, safety features, sighting refinements, and other matters designed to exclude low-quality weapons.

Once a handgun is manufactured or imported, the manufacturer or importer is required by the Act to place a serial number upon it and to keep a record by serial number of his sale to the wholesaler. The wholesaler in turn must keep a list of his sales to dealers by serial number, type of weapon, and manufacturer. The retailer is required to keep a journal of the handguns received, their origin, and their sale.

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18/ Almost 1,000 violations of this Act were referred for prosecution in 1973.

19/ Weapons covered by the provisions of the Act include "destructive devices" and unserviceable weapons which may readily be converted into effective firearms, thereby encompassing a wide variety of dangerous or potentially dangerous weapons that might not fit under the standard definition of the term "firearm."

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Retailers are prohibited from selling firearms to youths, non-residents of the dealer's state (with certain exceptions for residents of contiguous states), and persons prohibited by the legislation from possessing firearms. This latter category includes felons, persons under indictment, fugitives from justice, mental defectives, drug users, certain aliens, and persons who have renounced their citizenship. Upon making a sale of a handgun, the retailer is responsible for having the purchaser fill out a form which requires a description of the purchaser by name, height, weight, race, age, address, and place of birth; a description of the purchased weapon, including its serial number; and a statement, signed under a warning that a false statement is subject to criminal penalties, that the purchaser is not a member of a class barred from acquiring the weapon. The purchase forms are kept by the dealer. There is no central registry, and with one exception, 20/ no process for checking the data supplied to the dealer or for delaying the delivery of the weapon. 21/

No strictures are placed on transfers by individuals other than the prohibition, which is largely unenforceable, against private interstate sales. However, mailing of firearms, other than between licensed dealers, is generally prohibited.

In addition to its various provisions regulating commerce in firearms, the Act provides that any

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20/ The exception involves the intrastate sale of a firearm by mail order, in which case the purchaser must execute a sworn statement concerning his eligibility to receive a firearm and the retailer must forward the statement and a description of the weapon to the police by certified mail in the purchaser's place of residence. The retailer must delay delivery for a period of seven days following the return of the certified mail delivery receipt.

21/ The lack of a procedure for checking the data submitted has had the consequence of permitting felons to continue to purchase handguns freely. A 1974 review of 2,000 purchase forms in the files of 12 dealers in Greenville, South Carolina -- the major source of handguns used in New York City street crime -- revealed that 187 purchasers would have been identified as felons by a simple FBI name-check.)

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person who uses a firearm to commit any federal felony, or who carries a firearm unlawfully during the commission of any federal felony, is guilty of a separate offense in addition to the underlying felony, and is subject to an additional term of imprisonment for a period of one to ten years for a first offense and of two to twenty-five years for a second offense. While a first-time violator of the provisions may be placed on probation in lieu of incarceration, or may be permitted to serve any imposed term of imprisonment concurrently with any term imposed for the underlying felony, a second-time violator may not.

In summary, existing federal laws have the following general effect with regard to handguns: any kind of handgun, except for an automatic repeater, may be manufactured within the United States -- including a so-called "Saturday Night Special." Any kind of handgun, except for an automatic repeater and a low-quality weapon that fails to meet the Treasury Department importation standards (which effectively screen out "Saturday Night Specials") may be imported into the United States. Any person, except a person within one of the limited classes noted, may purchase a handgun without a license, and any person at all may possess a handgun without a license. The use of a handgun in the course of a federal felony is a separately proscribed offense. As an investigative aid, the recordkeeping requirements of the existing laws serve as a de facto, decentralized registration system permitting the tracing to the initial purchasers of weapons sold by dealers after the enactment of the 1968 provisions. 22/

#### 22/ b. Existing State and Local Laws

There are thousands of differing state and local laws concerning handguns. Twenty-five states require a license to sell a handgun at a retail establishment, eight

22/ To trace a weapon found to have been used in a crime, the Bureau of Alcohol, Tobacco, and Firearms ascertains, from manufacturers' or importers' and distributors' records, the dealer to whom the weapon was shipped. The Bureau then telephones the dealer and requests that he search his files to find the identity of the purchaser. While less efficient than a centralized filing system, the procedure usually produces surprisingly rapid results. As an example, the procedure disclosed within ten minutes of initiating the inquiry the name of the owner of the handgun with which Governor Wallace was shot.

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require a license to purchase a handgun, eleven require a waiting period between the purchase and delivery of a handgun, one requires a license to possess a handgun, 29 require a license to carry a handgun, 22 prohibit the carrying of a loaded firearm in a vehicle, four require the registration of all firearms, and all but a few prohibit hunting with a handgun. In addition to the state laws, there are numerous county, city, town, and village ordinances that employ various preventive and remedial approaches to the criminal use of handguns.

The most stringent state statute concerning handguns is that which was passed in the State of New York in 1911 and which commonly is referred to as the "Sullivan Law." While the laws of several states require a license before a person may carry a handgun, the New York law requires a person to obtain a license before he may possess a handgun in his home, to obtain a different license before he may possess a handgun in his place of business, and to obtain another license before he may carry a handgun concealed on his person. An extensive investigation of the applicant is conducted before granting a license. Even a person who has obtained a license may not possess a handgun in New York City if the license was issued elsewhere in the state.

There appears to be general agreement that the various state and local laws have had only a limited success in reducing the incidence of criminal use of handguns. In states and localities with relatively strict provisions concerning the sale and possession of handguns, the easy mobility of our society permits those desiring handguns to obtain them from neighboring jurisdictions that are without such strict controls. 23/ Prior to congressional passage of the 1968 statute governing the interstate transportation of firearms, a study in Massachusetts showed that during a ten-year period, 87 percent of the firearms used in crimes came from other states 24/; a sample study by the Detroit Police Department showed that during 1968, 75 percent of the firearms

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23/ See generally, New York City Criminal Justice Coordinating Council, The Case for Federal Firearms Control, pp. 11-13 (1973).

24/ Hearings before the Subcommittee to Investigate Juvenile Delinquency, Judiciary Committee, United States Senate, 89th Congress, pp. 346-347.



used in shootings were purchased out of state; 25/ and a New York City study of handguns confiscated by police revealed that 83 percent came from outside the state. Since the passage of the Gun Control Act of 1968 the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury conducted a study to determine the origin of handguns confiscated by the police in New York City. Of the 2,546 handguns traced, 2,048 were found to have been transported unlawfully into New York City from out of state sources, and over 500 came from retail outlets in South Carolina alone. 26/

### III. The Controversy Concerning the Problem

In the past several years numerous proposals have been advanced as potential means of alleviating the problem of the criminal use of handguns. The majority of the proposals have contemplated implementation by federal legislation in order to meet what is perceived by their sponsors as the national scope of the problem and in order to overcome the difficulties that have been experienced where particular handgun control laws have sought to be enforced in limited geographic areas. Numerous bills that would introduce various forms of handgun control -- some of which would also provide for longgun control -- have been introduced in past Congresses, and several have been introduced in the current Congress. 27/

The proposals for further handgun control have prompted unusually polarized debate. As accurately summarized by two writers on the subject: 28/

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25/ A 1968 survey showed that of 13,000 handguns sold by a dealer in Toledo, Ohio, 5,448 were sold to Michigan residents.

26/ Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury, Project Identification, (A Survey of Handguns Confiscated in Crimes in New York, Detroit, Atlanta, and New Orleans from July 1, 1973, through December, 1973) p. 8 (1974).

27/ See Appendix B, a chart depicting the approaches contained within the handgun control bills currently before the Congress; and Appendix C, a description of each of the currently pending bills; and Appendix D, a review of the firearms control positions of current members of Congress based upon their voting record over the last three Congresses.

28/ Hardy and Stompoly, supra, at 62.

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[N]o proposal has inspired as much controversy as that of additional federal controls on the possession of firearms. Proponents and opponents of controls have accused each other of seeking support from communist-front groups and from organizations of the radical right. Individual adversaries have been labelled liars, perjurers, racists, members of the lunatic fringe, and "freaks with advanced psychotic personality defects." Arguments have been described as hysterical propaganda and racist assaults on common sense. The statement of one Senator that to "consider this question in a rational manner will be a significant challenge to . . . abilities and objectivity" seems likely to prove a clear understatement. [Footnotes omitted.]

#### A. Factors Underlying the Controversy.

The reasons for the acerbity of the debate are rooted in part in our national culture and traditions.

Our past and our fiction have accorded us a vicarious familiarity with firearms, and with such familiarity has come a certain degree of passive, abstract acceptance. The nation's frontier history, the romanticized West from which the country is only two or three generations removed, the self-reliant, obstinately independent individualism that has served as the image of the national character -- have played their parts. So have fictionalized images concerning the gun. Youngsters grow up playing "cowboys and indians," "cops and robbers," and "war" with toy firearms; denied such toys they shoot with fingers. The gun fight is a staple of movies and television, the fictional, gun-wielding detectives like Mike Hammer out-sell the stories of Hercule Poirot and Sherlock Holmes, and even the Bonnies and Clydes are romanticized.

Perhaps more important than the images of history and fiction, however, is the reality that outside urban communities firearms in general play an important role in the recreational life of many Americans. With regard to the actual use of firearms, we are a nation with two cultures -- the urban, upper-middle class, white-collar culture which tends to view hunters and "plinkers" as semi-primitive atavisms, and the rural and semi-rural culture which regularly engages

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in firearms use as a common and enjoyed activity 29/ and which cannot fathom why people who have never even held a

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29/ In a 1973 interview, Herman Kahn decried the "educated incapacity" of the urban culture that has caused it in the last 10 years to lose "all touch . . . with the realities of American issues." He illustrated this with reference to "the gun culture."

A: Take guns. You've got the gun issue so bad its unbelievable--you, the Washington Post. I go to prestige universities and I always do this--at Harvard and Yale--I ask the class, "How many of you have three guns at home?" You get about 30 percent of the class.

Q: Thirty percent? At Harvard and Yale?

A: Thirty percent, three guns at home. The other guys, their jaws drop. You ask them why the others have three guns at home and they say, "To shoot Negroes." To protect themselves from the government." I said guns, not pistols. What are the three guns for, do you know?

Q: Hunting.

A: Yeah, hunting. This is a hunting country. Now what's their class?

Q: They're upper middle and middle?

A: Middle. Middle and rich hunt, not upper middle. Upper middle doesn't hunt, to a remarkable degree. Let's take this place right here [The Hudson Institute]. Thirty-five staff people? One hunter. Twenty-two sub-professionals? Twenty-one hunters. I live in a town, Chappaqua. No hunters in the big houses. Every service-station operator? Twenty-six taxi drivers? All hunters. It's a class issue. When you go from lower middle class to upper middle class, you give up the hunting, and when you get rich you pick it up again.

Footnote continued

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gun in their hands appear to be so upset about their possession and use. 30/

29/ Footnote continued

Q: Are you saying that that's what the gun issue basically is?

A: Well, it's more than that. Let me give you an example. I take the guys now who raised their hands, the 30 percent. I say, "How many of you got you .22"--I don't ask them if they have a .22--" at the age of 12 plus or minus six months?" Every single had goes up. Then I ask, "How many of you got your shotgun at the age of 14 plus or minus one year?" Most of them. "How many of you got your 30-caliber at 16 plus or minus one year?" About two-thirds of them.

These are rites of passage, absolutely normal rites of reaching manhood. You ask these guys, ask hunter friends of yours, "What's so great about hunting, what's so exciting about it?" They'll talk about when they were six years old, five years old, the first time they went out with their dad. It's the biggest day of the kid's life. He never forgets it.

\* \* \* \* \*

Q: A couple of years ago, The Washington Post ran a campaign to stop the kids in the schools from shooting guns on the rifle range.

A: You have no idea what you were doing. You were hitting America in the teeth, right in the center of the culture. You think it's making a minor change, just taking the gun away. It's right at the center of the culture.

30/ As observed by one writer (Benenson, A Controlled Look at Gun Controls, 14 N.Y.L. Forum (reprint p. 25) (1968)):

. . . It is difficult for someone who does not own guns to understand how attached many shooters feel to them. . . . [H]e frequently owns his guns for his lifetime and some of them may have belonged to his father and grandfather before him. The choice of which model to purchase frequently

Footnote continued

Despite the effects of culture and traditions, the nation's population as a whole appears to favor some form of strict control over the use of handguns, as differentiated from longguns. As reflected by polls, a "public opinion" has been expressed consistently over a generation at about the proportions indicated by a Gallup poll in 1972: 71 percent of all persons and 61 percent of all gun owners said they favored restrictive controls on handguns; 35 percent said they were opposed. The polls generally have not discriminated among the various approaches to handgun control, nor have they attempted to measure the strength of feelings about handgun control.

## B. Proponents of Additional Controls

### 1. The Proponents.

a. Law Enforcement officials have been among the strongest advocates of strict handgun control. Quinn Tamm, the Executive Director of the International Association of Chiefs of Police, and Patrick V. Murphy, the President of the Police Foundation and the former Police Commissioner of the City of New York, have advocated restricting handgun possession to law enforcement and military personnel. Clarence M. Kelley, the Director of the Federal Bureau of Investigation, stated during his confirmation hearings that he is for "any control (of handguns) which is effective." Numerous police chiefs, including those of Boston, Washington, San Francisco, and Los Angeles, have expressed similar views.

b. Several organizations have publicly supported stricter control of handguns, including several organizations that were established for the express purpose of advocating such controls. Among those organizations are the United States Conference of Mayors; the National Council for a Responsible Firearm Policy; the National Council to Control Handguns;

### 30/ Footnote continued

involves hours and even weeks of cogitation, and a sportsman's firearms are in many cases the center of his recreational activity. Many Americans spend an entire year planning their fall hunting trip and deciding which equipment to take on it. Gun collectors have invested untold time, not to speak of money, in searching for their specimens and in learning all they can about them. When such persons read in . . . [a] respected newspaper . . . a lead editorial suggesting that not even hunters should be allowed to own guns, it really makes them quite numb with despair.



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the Civil Disarmament Committee for Handgun Control; the Coalition for Handgun Control; Handgun Alert; and the Committee for Handgun Control.

c. Several recent national commissions have examined the subject of the use of firearms in violent crime. Each of the commissions has concluded that more stringent controls are needed for handguns.

In 1967, the President's Commission on Law Enforcement and Administration of Justice (the "Katzenbach Commission") recommended that the states require registration of all handguns, with federal legislation to apply in any state not enacting such legislation within five years. It recommended also that handgun user permits be required under any system adopted.

In 1968, the National Advisory Commission on Civil Disorders (the "Kerner Commission") recommended enactment of the Katzenbach Commission proposals coupled with provisions for state and local control of arms and ammunition storage in order to minimize theft.

In 1969, the National Commission on the Causes and Prevention of Violence (the "Eisenhower Commission"), after a particularly detailed examination of the general problem, recommended that state and federal licenses be required for handgun possession -- with licenses to be granted only to persons demonstrating a special need, such as police officers, security guards, and small businessmen in high crime areas -- and that possession of handguns and handgun ammunition by unlicensed persons be prohibited. It further recommended that manufacture of "junk guns" be prohibited.

In 1971, the National Commission on Reform of Federal Criminal Laws (the "Brown Commission") recommended the federal registration of all handguns and the prohibition of both the manufacture and possession of handguns except for military, police, and other official use.

In 1973, the National Advisory Commission on Criminal Justice Standards and Goals recommended state implementation of the following proposals by January 1, 1983:

"The private possession of handguns should be prohibited for all persons other than law enforcement and military personnel.

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"Manufacture and sale of handguns should be terminated.

"Existing handguns should be acquired by states.

"Handguns held by private citizens as collector's items should be modified and rendered inoperative."

## 2. Summary of the Proponents' Views.

The proponents of further handgun controls have argued that violence is at an unacceptably high level, that the handgun is the most common weapon by which violent crime is committed, and that by controlling the use of handguns the incidence of violent crimes would be reduced. They contend that to continue to permit the unchecked proliferation of handgun possession is irresponsible. While recognizing that the nation's history has made the possession of firearms a common matter, many argue that the historical need for retaining this privilege has virtually disappeared, and to the extent that it exists at all it must give way to the safety requirements of an urban society. They assert that longguns adequately would fulfill the need for legitimate hunting and self-protection purposes and that shooting ranges would permit the continuation of the sport of handgun target marksmanship, but that occasional, weekend "plinking" with handguns must of necessity be sacrificed to the more important needs of the community.

## C. Opponents of Additional Controls

### 1. The Opponents

Several organizations concerned with the shooting sports -- hunting and target shooting -- have expressed opposition to further controls on the use of handguns and the use of firearms generally. Foremost among them is the National Rifle Association -- a 100-year-old, non-profit organization that sponsors numerous target shooting competitions, marksmanship courses, safety programs, and hunting programs, and that currently has approximately one million members. Several individuals who do not engage actively in shooting activities have also expressed opposition to the imposition of further controls on the use of handguns. For the most part, the opposition of these individuals is predicated upon philosophical and political grounds, their concern being the further encroachment of government controls upon traditional freedoms of American citizens.

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## 2. Summary of the Opponents' Views

The opponents of further handgun control are concerned that even proposals limited to handguns are but a prelude to proposals directed against longguns as well, and consequently they fear that the legitimate shooting sports would be jeopardized by the enactment of additional controls. Moreover, the opponents point out with apparent frustration that the majority of the proposals are misdirected -- they are aimed at guns rather than at those who engage in the criminal misuse of guns. They argue that criminals will continue to possess and use handguns in violation of any restrictions that may be passed, leaving only the law-abiding citizens without free use of handguns. In any event, they argue, even if criminals were successfully to be denied access to guns, they would use other available weapons to accomplish their purposes and, despite the contrary suppositions of the advocates of controls, the rate of violent crime would remain at least as high as ever. They conclude that the appropriate remedy lies in the strict enforcement of laws directed to the criminal misuse of handguns, and in the imposition of long, mandatory sentences for violation of such laws. As a philosophical matter, they also argue that state and local restrictions, which are more apt to be responsive to the diverse needs of the particular localities covered, are preferable to restrictions imposed nationwide by the federal government.

Many opponents of further restrictions also raise a constitutional objection to further handgun controls. They assert that the Second Amendment to the Constitution was designed to protect individual ownership of firearms in the interest of challenging governmental tyranny and that a need for the counterveiling balance of an armed citizenry is as crucial today as it was at the time of the American Revolution. This is the single argument that the supporters of further restrictions tend to dismiss most readily as reflecting a lack of rationality. It should not be so dismissed without an understanding of the seriousness with which it is expounded. 31/

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31/ See e.g., Benenson, supra, at 25.

#### IV. Potential Approaches to Alleviate the Problem

Set forth below are a range of approaches to the problem that warrant evaluation if additional federal measures are to be considered. They proceed roughly from the more restrictive alternatives to the less restrictive. Although they are stated as alternatives, a preferable approach might employ two or more of them in combination, and in a few instances the advisability of particular combinations of approaches has been noted.

It should be noted that, if additional restrictions on the use of handguns are to be employed, any federal legislation could impose such restrictions directly or could require the enactment of state laws meeting minimum federal standards. Since this is a subject matter that traditionally has been left as the primary responsibility of state and local authorities, there is an argument to be made that any federal legislation on the subject should be designed to become effective only in those states in which the state laws do not, within a reasonable period of time, meet minimum federal standards.

It should also be noted that even federal legislation on the subject could have a limited geographic application in order to avoid unnecessary abridgement of existing privileges in areas where handguns present a lesser problem. Restrictive controls could be imposed only in those metropolitan areas where the need, as demonstrated by the violent crime rate, is greatest. Less stringent measures could be employed elsewhere, thereby reducing the difficulties experienced in the past when local variations in handgun control and lack of supplementary, national controls permitted ready circumvention of the more stringent proscriptions in those jurisdictions attempting to employ them.<sup>32/</sup>

Alternative A - Prohibit the Private Possession of Handguns and Require that Presently-Possessed Handguns be Turned in

##### 1. Provisions

This approach would prohibit the private possession of handguns and handgun ammunition except for use by law enforcement officers, professional guards, and military personnel, and by private persons at licensed shooting ranges where guns must be kept securely. It would require that privately

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<sup>32/</sup> A more extensive treatment of this possibility has been presented in a separate memorandum on the subject.

owned guns be turned in for fair market value during a grace period.<sup>33/</sup> Private retention of collectors' items would be permitted if they were rendered inoperable.<sup>34/</sup>

## 2. Consequences

This approach would have the highest potential for alleviating the problem because it would immediately move to reduce the millions of handguns in private possession that are not used for sporting purposes. Any confiscatory program, however, cannot be expected to reach all handguns. At best, a substantial portion of the outstanding handguns would be turned in during the grace period, most of the remaining handguns would disappear from circulation, and the reduced supply of handguns would soon be felt by non-professionals at the margins of the criminal community -- by those most prone to engage in violent street crime.<sup>35/</sup> The number of handguns turned in during the grace period might be measurably increased if an inducement were added to the approach -- such as offering double the fair market value for an initial, set period of time.

There are three principal disadvantages of this approach to the problem.

First, only a very small proportion of the handguns in private possession are ever used for criminal purposes, and to prohibit everyone from possessing a handgun, including the vast majority of handgun owners who are unlikely ever to use such a weapon to commit a crime, may be considered an unacceptably high price to pay if a more carefully focused program might generate the same benefits.<sup>36/</sup>

Second, the handguns employed to commit crimes are those least likely to be turned in under such a program. Although the circulation of handguns among potential criminal users

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<sup>33/</sup> A variation of this approach could prohibit the private possession of handguns other than at a licensed shooting club or at one's home or place of business.

<sup>34/</sup> Private retention of operable antiques designed to fire other than fixed ammunition could also be permitted.

<sup>35/</sup> By making all handguns contraband, all those that are found in the possession of persons arrested could be confiscated, thus reducing at a more rapid rate than is now possible the number of handguns in the hands of those most likely to misuse them.

<sup>36/</sup> It is estimated that on an annual basis only one-tenth of one percent of all handguns in New York City are involved in the criminal homicides committed and that only one or two percent are employed in the commission of the aggravated assaults that take place in that city. Assuming that a handgun previously used in the course of a crime is more apt to be so employed again than is a handgun that has not been so used, these figures would even be further reduced.



would be reduced, a large number of handguns could be expected to remain in the hands of criminals for a protracted period of time.

Third, a prohibition against possession would result, partly because of the difficulties of enforcement<sup>37/</sup> and partly because of resentment that would generate on the part of those who feel a valued personal liberty is being infringed, in a high degree of non-compliance.<sup>38/</sup> Many of those who ordinarily would obey laws without question would feel that the federal government was overreaching itself. As summarized by one writer <sup>39/</sup>:

[T]he scattered compliance with the . . . [present] gun laws indicates how they are viewed by firearms owners. Any effort to impose laws which those directly affected sincerely believe oppressive and foolish inevitably leads, as with prohibition, to contemplate for the entire governmental process. It is astonishing to see that the very part of the political community which now supports the liberalization of drug, abortion, and sexual conduct statutes on the basic ground that legislation which is not obeyed is worse than none at all, is unable to recognize the same problem here.

### 3. Costs

Assuming that upon the implementation of such a program approximately 20 percent of the existing handguns would be stored at shooting clubs, that ten percent would be rendered inoperative of government expense, that 30 percent would be turned in for double their fair market value, that

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<sup>37/</sup> Some opponents of this approach have argued that effective enforcement would require sweeping house to house searches -- a plainly undesirable prospect. It appears, however, that the dictates of the Fourth Amendment to the Constitution and the practical constraints imposed by budgetary considerations would, in themselves, assure that infringements on societal values would not exceed those that today accompany enforcement of, for example, the federal laws prohibiting marijuana possession.

<sup>38/</sup> Use of civil as opposed to criminal penalties could remove the problem of criminalizing a large segment of the populace. Such criminalization is inherently dangerous to the general program of law enforcement and might lead to considerable resentment by those who sincerely believe that there is nothing inherently improper in handgun ownership.

<sup>39/</sup> Benenson, supra, at 31.

ten percent would thereafter be turned in for fair market value, and that 30 percent would not initially be turned in (and further assuming an average cost of \$10 for rendering a handgun inoperative and an average market value of \$75 per handgun) the initial costs of conversion and compensation would be roughly \$2.14 billion. The cost without a double market value incentive would be \$1.24 billion. The additional cost of administering the program during the turn-in period is estimated at approximately \$1 billion.

The direct monetary benefits that would accrue to the nation as a result of a decline in the rate of violent crime committed by handguns is difficult to measure. Since, however, the annual cost of handgun homicides alone is conservatively estimated to exceed one billion dollars, and since there is some evidence to indicate that even a ten percent reduction in handgun density could lead to more than a 25 percent reduction in the homicide rate, 40 the savings from a decreased homicide rate alone could exceed 250 million dollars annually.

Alternative B - Prohibit the Transfer of Handguns and Require that Handguns be Turned in Upon the Present Owners' Deaths

#### 1. Provisions

This would be the same as the previous approach, except that a "grandfather clause" would permit the private possession of existing handguns by their present owners. Transfers of ownership -- either by inter vivos sale or gift or by inheritance -- would be prohibited, unless the handgun is forwarded to the custody of a licensed shooting range. As a matter of control, this approach probably would have to be combined with a provision for licensing handgun owners and registering existing handguns.

#### 2. Consequences

• The advantage of this variation over that set forth in Alternative A would be that it would permit present owners -- those with the strongest feelings on the subject -- to retain their possessions throughout their lifetimes, and would give citizens as a whole an adequate time to adjust to the proposal.

The primary disadvantage of this approach, as compared with Alternative A, is that it would be considerably less effective from an immediate standpoint because some 40 million handguns would be left in private possession until the owners' deaths, or until voluntarily turned in for fair market value.

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40 Phillips, Votey, and Howell, supra, at 15.

The number of handguns that would be turned in during the initial operation of such a program is highly speculative. While the impetus for turning in handguns that would be provided by termination of a grace period would not exist under this proposal, it might be found that the inducement provided by a short term offer of double market value might be the more effective of the two incentives and therefore that such a provision alone might minimize the difference in immediate effect between this variation and preceding proposal. In any event, it would be considerably more important to include an inducement for early turn-in under this variation.

### 3. Cost

Prohibiting the manufacture, distribution, sale, transfer, and possession of new handguns could be accomplished without additional expenditures. The costs of a conversion and turn-in program would probably be close to those estimated for the preceding approach. The costs of the concomitant licensing and registration provisions are discussed below.

Alternative C - Impose a Tax on the Possession of Privately Owned Handguns to the extent Necessary to Equal the Societal Cost of Private Possession

#### 1. Provisions

Under this approach, a tax - either a one-time tax or an annual tax - would be imposed upon handguns in private possession. <sup>41/</sup> The tax on each handgun would be set at an amount designed to approximate the pro rata share of the societal cost of private handgun ownership. A continuing voluntary turn-in program, with compensation at fair market value, would be set up to provide for the controlled disposition of handguns by owners who no longer wished to bear the tax burden.

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<sup>41/</sup> The Constitution prohibits federal imposition of direct taxes unless apportioned among the states by population, a procedure which would not necessarily assure that the tax would be borne only by handgun owners. Thus the tax imposed under this approach would have to be levied by the states. Federal inducements could be provided to assure the imposition of such state taxes.

Again as a practical matter, this proposal would probably have to be supplemented with licensing and registration provisions.

## 2. Consequences

This approach would have the advantage of being perceived as a familiar form of governmental solution to a social problem, putting the costs of an activity upon those who engage in the activity. The fact that only a small proportion of those who engage in the activity in question (handgun possession) occasion the social cost of the activity (the crimes, and in this case the accidents, occasioned by handguns) is no more unjustifiable than the assessment of liability under comparable governmental programs.

The justification for this approach is that the potential of the handgun for inflicting harm on others is a cost that has not adequately been reflected in the price of handguns, and that, because neither handgun owners nor handgun manufacturers have been charged for this social cost, an excessive number of handguns have been purchased. With the taxing of handguns to reflect this cost, fewer would be purchased or retained.

This approach, assuming its enforceability, would probably result in a material decrease in the number of handguns in private possession, since the tax, although justifiably tied to the damage occasioned, would in effect be close to confiscatory. Enforcement of such a tax provision would be a major problem, however, as is enforcement in any situation involving a personal property tax on concealable items in private possession. <sup>42/</sup>

<sup>42/</sup> A more easily enforceable variation of this approach could have a tax apply only if the handgun is to be possessed other than in the owner's home. It could tax the activity of carrying a handgun rather than tax the handgun. If the amount of such a tax were made inversely proportional to the danger of the kind of carrying contemplated -- being higher for a person intending to carry a handgun daily for self protection and lower for a person intending to carry a handgun only to and from a shooting range -- such a variation might achieve a form of bidders' licensing system under which, for a given fee, a person would be permitted to carry a handgun for a particular purpose, in a particular manner, or to a particular place, depending upon the amount of the fee paid.

### 3. Costs

By its design, this approach could be revenue producing. Even assuming a relatively low degree of compliance, the revenue probably would exceed the administrative costs of the program. The costs that would be occasioned by the concomitant licensing and registration provisions are discussed below.

## Alternative D - Prohibit the Sale of Handgun Ammunition

### 1. Provisions

Under this approach, sales of handgun ammunition, other than sales at licensed shooting clubs for use on the premises, would be prohibited. Handgun ammunition would be defined so as to exclude from coverage ammunition manufactured principally as a rifle load but capable of being used in a limited number of handguns.

### 2. Consequences

This alternative would have the potential for rendering useless the 40 million handguns in private possession. Moreover, it could achieve this potential without reliance upon voluntary citizen compliance. The potential could be achieved only gradually, however, since hundreds of millions of rounds are already in private possession <sup>43/</sup> and since large volume buying of handgun ammunition could be expected to precede the enactment of any proposal of this nature. Although center-fire handgun ammunition may be reloaded and reused several times by amateurs possessing the necessary equipment, prohibition on the sale of primers for handgun cartridges could effectively curtail the reloading and use of existing cartridge cases.

A serious difficulty with this approach is that the most commonly used handgun cartridge -- .22 caliber rim fire ammunition -- is also the most commonly used rifle

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<sup>43/</sup> Over one-quarter of a billion handgun cartridges are manufactured and sold in the United States each year.



ammunition. 44/ Unless the sale of such ammunition is proscribed, however, the measure would be of only limited effectiveness, especially since .22 caliber ammunition is used in a particularly large percentage of the inexpensive handguns commonly used in street crimes. 45/ Yet to restrict the availability of such a common rifle cartridge might well be considered an inappropriate consequence of a measure designed for handgun control.

If this approach were to be employed without coverage of .22 caliber ammunition, it probably would have to be supplemented with a prohibition against sale or possession of "Saturday Night Specials". 46/

### 3. Costs

The costs of this program would lie primarily in routine inspection to assure that suppliers and dealers are not selling handgun loads to other than law enforcement agencies and licensed shooting ranges, and in assuring that licensed shooting ranges account for the use on the premises of all handgun ammunition sold. The need for more than routine checking would be largely reduced by the fact that those directly affected by the proposal -- suppliers, dealers, and shooting range operators -- would have a strong interest in voluntary compliance to avoid loss of their licenses.

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44/ According to ATF estimates, approximately 45 percent of the 50 million rifles in private hands -- a total of 22.5 million rifles -- are designed to fire .22 caliber ammunition. Approximately 34 percent of the handguns currently being manufactured are of .22 caliber. (See Appendix A)

45/ Shootings with handguns employing .22 caliber ammunition, as opposed to larger caliber ammunition, are far less likely to result in the victim's death. Zimring, The Medium is the Message; Firearms Caliber as a Determinant of Death from Assault, 4 Jour. of Legal Studies, p. 97 (1975).

46/ It should be noted that even the prohibition of the manufacture and sale of three loads suitable only for handguns -- .25, .32, and .380 calibers -- would eventually prevent the use of over 25 percent of the handguns currently manufactured, and a far higher percentage of the inexpensive handguns. (See Appendix A.)

## Alternative E - Prohibit the Possession of "Saturday Night Specials"

### 1. Provisions

This proposal would prohibit the manufacture, sale, transfer, receipt, and possession of the inexpensive, low-quality small bore handgun -- commonly known as the "Saturday Night Special" -- which is most often the kind of handgun used in the commission of violent crimes.<sup>47/</sup> A problem lies in defining what constitutes a "Saturday Night Special". Any successful and acceptable test would probably have to include a variety of factors, including barrel length, the presence of safety features, the metallurgical quality (which would be determined by a melting test or a hardness test), resistance to firing or malfunctioning upon being dropped, etc.<sup>48/</sup> Probably a variation of the Treasury Department's present restrictions on imports, which are aimed at inexpensive handguns, could be applied to domestic handguns, thereby requiring each model to achieve a requisite total of points based upon the application of various tests. (See Appendix E) Any system employing such criteria would probably have to place some emphasis on overall length, the prime factor affecting concealability.

A variation of this approach would be to prohibit only future sales, and thus to permit the possession of existing "Saturday Night Specials". Such a variation, however, would have far fewer benefits from a law enforcement standpoint.

### 2. Consequences

This alternative would help to remove from circulation the kind of weapon that is used in a very high percentage of street crime, would drive up the average cost of handguns to a degree that would reduce circulation, and would provide law enforcement authorities with an easily provable charge against possessors. Moreover, since there is no legitimate use for

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<sup>47/</sup> In tracing 4,537 handguns used in crimes in four major cities, 70 percent were classified by ATF as "Saturday Night Specials". Project Identification, supra, at 7.

<sup>48/</sup> Representatives of the country's four major handgun producers -- which together account for 70 percent of domestic production -- have recently agreed to work with ATF employees in devising a workable test.

such weapons that cannot be performed better by higher quality handguns, it is an approach that has engendered relatively little criticism.<sup>49/</sup>

### 3. Costs

The cost of acquiring existing "Saturday Night Specials" at fair market value -- assuming the existence of 10 million such weapons worth an average of \$50 apiece -- would be \$500 million.

## Alternative F - Tax the Sale of "Saturday Night Specials"

### 1. Provisions

This alternative would impose a regressive tax on the sale of "Saturday Night Specials" which would raise to a set level the over-the-counter cost of all such weapons. If the tax point is set at \$100, a handgun made to sell for \$25 would be taxed \$75; a handgun made to sell for \$90 would be taxed \$10; a handgun made to sell for \$100 or above would not be taxed at all. The proposal would rely upon economic forces to drive out of competition the manufacturers of such inexpensive weapons. The assumption is, of course, that a prospective buyer, when offered the selection of a poorly made handgun at a price of \$100 and a well made handgun at a price of \$100, would choose the latter.

### 2. Consequences

This approach would have roughly the same limited advantages as banning the sale but not the possession of "Saturday Night Specials".

### 3. Costs

The costs of administering such a program would be slight. To the extent that the program produced revenue, the administrative costs would be offset.

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<sup>49/</sup> The NRA has opposed this approach, primarily on the ground that a sensible test has not yet been developed. However, the principal handgun manufacturers in the country -- Colt Industries, Smith and Wesson, High Standard, and Sturm Ruger -- have advocated congressional adoption of such an approach.

## Alternative G - Require Licensing of Handgun Owners on a Restrictive Basis

### 1. Provisions

A restrictive licensing approach would prohibit handgun possession (or, alternatively, would prohibit handgun possession only outside one's home or place of business) without the owner first having acquired a license to possess such a weapon. A license would not be issued to any person falling within designated classes of individuals -- such as felons, mental incompetents, and juveniles -- who would appear more likely than others to misuse a handgun. A person outside those limited classes would be permitted to obtain a handgun license only upon presentation of a persuasive reason indicating an unusual need for possession of a concealable weapon for self protection. Valid reasons might include, for example, the receipt of provable threats upon the applicant's life, or the necessity of carrying weekly business receipts to a nighttime depository in an area without an armed guard service.<sup>50/</sup> Persons who wish a firearm for the purpose of protecting their homes or businesses against criminal intruders -- a purpose for which concealability of the weapon is relatively unimportant -- would have to use a rifle or a shotgun. Persons interested in using handguns only for target practice would be permitted to keep and use such weapons at licensed shooting ranges without the necessity of a license. Absent presentation of a license, a person would be prohibited from purchasing handgun ammunition, except at licensed ranges.<sup>51/</sup>

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<sup>50/</sup> It may fairly be assumed that the imposition of a restrictive licensing program would result in an increase of companies offering armed delivery service, thereby eliminating in most urban areas the need to exempt proceeds-carrying businessmen from the restrictive application of the licensing provisions.

<sup>51/</sup> Various penalties might attach to different forms of violations of the provisions of the system. For example, the unlicensed carrying of a handgun in an urban area could entail a mandatory penalty of one-year's incarceration; unlicensed carrying elsewhere could entail a six-month's penalty; and simple unlicensed possession could entail a three-month penalty. Transfer of a handgun to an unlicensed person could carry a one-year penalty (plus, if the offender is a dealer, the loss of his dealer's license) and the selling of ammunition to an unlicensed person could entail a six-month penalty (plus loss of the offender's dealer's license, if any.)

Satisfactory completion of a course on handgun safety taught by a state-certified instructor, although collateral to the principal purpose of the proposal, could be made a prerequisite to the obtaining of a license.

As a practical matter, such a program probably would have to be coupled with a voluntary turn-in program under which the government would acquire existing handguns owned by persons who could not meet the licensing requirements of the proposal. This would be necessary to afford such owners a convenient means of disposal. 52/

A variation of the system could employ restrictive licensing requirements in urban areas, and nonrestrictive requirements elsewhere.

## 2. Consequences

A restrictive licensing proposal would have several advantages. First, it would give law enforcement authorities an opportunity to check an applicant's criminal record and thereby to reduce the chances of handguns lawfully coming into the possession of persons who are more apt than others to misuse them. Second, it would materially reduce the number of persons authorized to carry handguns, and thereby would have some effect in reducing the actual number carried. If nothing else, a reduction in the number of handguns carried would decrease the incidence of impulsive misuse. Third, it would provide law enforcement authorities with an easily provable charge against those individuals arrested for a criminal act who are found to be in unlicensed possession of a handgun. 53/

The screening opportunity and the easily provable charge 54/ would, in themselves, make the proposal of considerable

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52/ There would not be a problem of a constantly resupplied reservoir of handguns which the government would be obligated to purchase since persons turning in weapons would not be able to replace them from dealers' inventories, not having a license required for future purchases.

53/ The Detroit police chief recently reported that guns were found in 60 percent of all arrests in that city -- including arrests for routine traffic offenses. The New York Times, March 5, 1975, p. 14C.

54/ The easily provable count would be of particular importance as a fallback charge. Often the principal offense for which an arrest is validly made cannot be established because of a technical failure of proof.



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potential utility in reducing the incidence of handgun-related crime. Certainly it would make over-the-counter purchases by felons far more difficult, would make the unlicensed carrying of a handgun while committing an offense a very risky matter, and would provide a fairly certain means of short-term incapacitation of potentially violent offenders who were found to be in unlicensed possession of a handgun. These same benefits, it should be noted, would also obtain under a non-restrictive licensing system. The realization of these advantages, however, is dependent upon the efficacy of the criminal justice system, which may need to be bolstered to permit expeditious prosecutions for such offenses.

A provision that might logically be added to such a proposal would permit the holder of a federal license to buy a handgun anywhere in the country, not just in his home state as he is generally limited under current law, and would permit him to have the handgun sent directly to his home.<sup>55/</sup>

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<sup>55/</sup> This collateral advantage could be accorded license holders, without significantly increasing law enforcement difficulties, because of the safety provided by the prescreening process. Under the licensing program, a potential licensee would fill out an application form. In addition to any other screening that might be necessary, the information required by the form would be transmitted to the FBI for a name-check to determine whether the applicant had previously been convicted of a criminal offense. If it appeared after examination of pertinent records that the applicant was not within any of the prohibited classes, and if the issuing authority was satisfied that the demonstrated need is of an order meeting the requirements established by federal regulations, a card would be issued to the licensee setting forth as a minimum his name, social security number, and photograph, and identifying him as the holder of a federal handgun license for a stated period. The licensee would then be able not only to possess a handgun during that period, but to purchase a new handgun upon display of his license without the complications presented by the current federal restrictions on dealers' sales to nonresidents of the dealers' state, and without awaiting the passage of any period of time that may previously have been required under state laws to permit a local police search of records. Legitimate license holders, therefore, would be provided an ease of access to handguns that is not available today.

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It should be noted that requiring the presentation of a federal license before being able to purchase ammunition will in large measure alleviate the potential problem that might exist if there were not a practical incentive to voluntary compliance.

A difficulty with this approach lies in defining what would constitute a valid reason sufficient to justify the issuance of a license. Legislative or administrative guidelines, together with an appeal procedure for rejected applicants, would probably be required in order to minimize potential arbitrariness of application.

### 3. Costs

A restrictive licensing system could be expected to cost about \$20.5 million, assuming that one million persons would apply for licenses, that one out of ten would be able to meet the requirement of demonstrated need, that the cost of assessing need would be approximately \$20 for each applicant, and that the cost of running an FBI name-check would be approximately \$5 for each applicant establishing need. <sup>56/</sup> Since, as noted, such an approach probably would have to be coupled with a voluntary handgun turn-in program, the cost of acquiring a large number of existing handguns at fair market value would have to be weighed in evaluating the general approach. Assuming, again, that 100,000 potential licensees could meet the licensing requirements, and even assuming that each such potential licensee currently owns several handguns, it is apparent that the government would be liable for the acquisition of over 99 percent of the handguns presently outstanding. The potential cost of acquisition might be materially lowered if the approach were modified to permit handgun possession without a license in one's home or place of business.

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<sup>56/</sup> A National Shooting Sports Foundation Study in 1970, using New York City Data, suggested that licensing costs might approximate \$75 an applicant or \$25 a gun. Krug, Firearms Registration Costs vs. Benefits, p.2 (1970). The New York City licensing procedure has been criticized as unnecessarily complicated and time consuming. Benenson, supra, at 14.

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## Alternative H - Require Licensing of Handgun Owners on a Nonrestrictive Basis

### 1. Provisions

Under this variation of the licensing approach, licenses would be issued upon application to all persons except those coming within limited prohibited classes. Persons without licenses could purchase neither handguns nor handgun ammunition. Several collateral aspects of the restrictive licensing approach would be equally applicable with regard to nonrestrictive licensing.

### 2. Consequences

Although this approach would do nothing directly to reduce the number of persons carrying handguns, 57 it would permit the opportunity for checking an applicant's criminal record prior to issuance and, as discussed in relation to the restrictive licensing proposal, would provide law enforcement authorities with an easily provable charge for criminal noncompliers. It would, therefore, carry two of the more important law enforcement advantages of a restrictive licensing system without engendering the same potential for widespread noncompliance. 58/

### 3. Costs

It is estimated by the Bureau of Alcohol, Tobacco and Firearms that licensing the existing owners of handguns would cost approximately \$100 million.

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57/ A Philadelphia study indicates that under such a city-wide system, 97 percent of all applications for licenses were approved. Senate Committee on the Judiciary, Hearings (July 10 - August 1, 1967) pp. 343-345.

58/ This approach is the one that those who oppose controls appear to find least objectionable. In fact, because of the advantages that may attend the possession of a license with nationwide effect (see note 55, supra), some seem to give it cautious endorsement. See Benenson, supra, at 25, 28-30.

## Alternative I - Require Registration of Handguns

### 1. Provisions

Under this approach, everyone owning a handgun would be required to register it with the Secretary of the Treasury. <sup>59/</sup> Upon the sale or other transfer of the handgun, a re-registration in the name of the new owner would be required. The loss or theft of a handgun would have to be reported promptly to law enforcement authorities.

### 2. Consequences

As noted previously, a registration system is of value primarily to permit law enforcement authorities to trace to the last record owner a handgun that has been found to have been used in the course of a crime. It is an investigative aid, not a means of keeping handguns from those who are more apt than others to misuse them. It appears, however, that such a system would tend to discourage record owners from transferring their handguns to others without going through the process of re-registration, and it may be assumed that many potentially criminal users would be loathe to have their handgun purchases registered. Consequently, there may be some inhibiting effects that would make acquisition of handguns by criminals more difficult. <sup>60/</sup>

Another value of the registration approach -- and perhaps its greatest value from a law enforcement standpoint -- is that it would provide a readily provable charge against a criminal found in possession of a handgun that has not been registered. Like licensing, the availability of such a charge,

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<sup>59/</sup> For purposes of this memorandum it is assumed that the Department of Treasury would continue to be the executive agency in overall charge of any program adopted.

<sup>60/</sup> An effective registration system would, moreover, quickly call attention to an individual making multiple purchases at a series of dealers. There is data to indicate that more than half of multiple purchases violate present federal laws, while only one percent of all handgun transactions do so. Zimring, Firearms and Federal Law, *supra*, at 192. An ATF program may soon be initiated to achieve the routine reporting of multiple sales.

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together with an expedited enforcement system, would permit the quick prosecution, conviction, and incarceration of an individual against whom well-founded more serious charges could not, for one reason or another, be proved. Successfully employed, such a system could deter the carrying of handguns by persons unwilling to have them registered in their own names, and could provide a means of short-term incapacitation of criminal users found with unregistered weapons in their possession.

A problem with this approach is that many opponents of handgun control see registration as a particularly undesirable requirement because it would permit the federal government to know at any given moment exactly who were the nation's handgun owners, and consequently would assist a totalitarian administration in making a nationwide confiscatory raid. 61/ Such fears do not attend the current system of de facto registration provided by the 1968 statute, under which dealer sales of handguns are recorded, filed, and indexed at the individual dealer's place of business. Today, while the current statute permits federal investigative agencies to trace a handgun used in a crime by the manufacturer's serial number to the dealer who sold it and then to telephone the dealer to have him ascertain to whom the handgun had been sold, there exists no means by which the federal government could immediately identify all the owners of handguns purchased from dealers since 1968. To undertake such an identification today would require the cooperation of all the nation's dealers and the expenditure of considerable time and money to develop a usable compilation.

It would appear that the sole legitimate purpose of a registration system could be accomplished as well by a continuation of the present system of dealer registration, supplemented by a transfer notice system as discussed below. Such a solution could obviate the concern that has been prompted in the past by suggestions of a nationwide data bank.

### 3. Costs

It has been estimated by the Bureau of Alcohol, Tobacco, and Firearms that a nationwide registration system would cost approximately \$40 million if all existing handguns were registered. It would be possible, of course, to charge a fee for registration that would offset this cost, but the addition of a fee to what may in itself be considered by many handgun owners as an onerous requirement may increase the likelihood of widespread noncompliance.

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61/ See Benenson, supra, at 25.



## Alternative J - Require Notice of all Transfers of Handguns

### 1. Provisions

Under this approach, all transfers of handguns between private persons, whether by inter vivos sale or by inheritance, would be required to take place on the premises of a licensed dealer. The same forms would be filled out in the dealer's presence, and would be kept by the dealer, as those now required when handgun sales are made by a dealer. Upon transfer of a handgun that does not bear a manufacturer's serial number, as many inexpensive handguns manufactured or imported prior to 1968 do not, the dealer could stamp his own license number and sales code upon the frame of the weapon to assure that it might thereafter be traced.

### 2. Consequences

The primary advantage of this system is that, within the passage of a generation, during which the ownership of all existing handguns would be transferred, all of the benefits of the registration system could be achieved without encountering the major practical difficulties of such a system. The avoided practical difficulties include the resentment and potential noncompliance of many existing handgun owners who would not be affected by the transfer notice system until their deaths or until they chose to sell the weapons, and the suspicions of those who fear a central repository of information concerning the nation's handgun owners.

The practical benefits of such a system would gradually be felt prior to the passage of a generation. The accrual of the benefits could, moreover, be accelerated. Since most crime is committed by persons less than 30 years of age, the present dealer registration system plus a transfer notice system could appropriately be supplemented by a requirement that all handguns owned by persons under 21 be registered. 62/ Then, upon the passage of only nine years, there would exist an easily provable charge against criminals 30 years of age and under who use unlawfully acquired handguns -- a charge of possessing a handgun acquired without a transfer notice being filed -- since such persons could not have lawfully possessed a handgun or have purchased it from a dealer until 21 years of age. Much of the potential deterrent and incapacitative advantage could thereby be achieved within a relatively short time after imposition of such a system.

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62/ Such a limited registration provision is, in itself, apt to foster relatively little resistance.

### 3. Costs

The initial cost of such a system would be considerably less than that of a registration system, inasmuch as handguns would have to be registered only at the time of their future transfer. Again, the system could be made self supporting by imposing a transfer notice fee equal to the cost of processing. On the other hand, it might be preferable to have the government undertake to assume the cost in order to encourage compliance. 63/

### Alternative K - Modify Existing Regulatory Statutes to Increase their Effectiveness

#### 1. Provisions

This approach would amend in minor respects those current laws that restrict or channel the flow of handguns. First, a waiting period between purchase and receipt of a handgun would be required to permit an FBI name-check for the existence or non-existence of a criminal record, and to provide a general "cooling-off" period. 64/ Second, the "possession" offense, which was found in the Bass case 65/ to be defectively drafted, would be reenacted in sustainable form. Third, transactions involving firearms transfers from manufacturers to wholesalers would be centrally registered, a minor modification designed to alleviate the inconvenience of having to monitor the flow of handguns through government-initiated contacts.

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63/ A supplementary benefit could be realized if the dealer, before whom the transferor and transferee appeared, were required to examine the handgun to assure that it was in safe operating condition. This would not, of course, further in any way the principal purpose of the program -- controlling criminal misuse of handguns -- but it conceivably could help in a small way to reduce the incidence of handgun accidents.

64/ There is some reason for believing that this could be effected by regulation under existing statutory authority. The statutes, on their face, would permit such regulations. It appears, however, that such regulations might contravene the legislative intent underlying the 1968 gun control statutes.

65/ See note 17, supra.

## 2. Consequences

The name check proposal could be expected to have a high degree of success in reducing initial sales to felons, assuming that dealers required adequate identification prior to initiating the checking process.

The waiting period would allow for the cooling of passions of a person purchasing a handgun for the purpose of committing a crime, a purpose that appears to be the basis of a large number of purchases. 66/

The correction of the Bass problem would have the important effect of providing an easily provable charge against felons in possession of handguns, without occasioning the controversy attending the other approaches that would accomplish the same result. 67/

The central recording of data on sales to wholesalers would simply serve to expedite the tracing of handguns.

## 3. Costs

The cost of this approach would lie only in the name-check provision, and would apply, of course, only to future sales. The costs would probably be somewhat less than those involved in non-restrictive licensing of future owners.

66/ There are at least two figures which would indicate that the cooling-off period would have a salutary effect. A New York City study showed that of a group of 200 handguns shipped to New York and sold there illegally, 169 were seized within the next six months in connection with violent crimes. New York City Criminal Justice Coordinating Council, The Case for Federal Firearms Control, pp. 11-13 (1973). Zimring's study, Firearms and Federal Law, *supra*, showed that 19 percent of the guns seized in December of 1973 in New York City had originally been sold that same year. This data and other figures shown by Zimring establish a basis for accepting a strong temporal correlation between handgun purchases and illegal handgun usage. Id., at 174.

67/ This alternative and the one following present possible modifications to current law of a relatively slight nature which by themselves, or coupled with other alternatives, could serve to achieve a measurable gain in controlling the misuse of handguns while requiring only minor legislative action. By themselves, these approaches are likely to generate relatively little controversy.

Alternative L - Modify Existing Statutes Dealing with  
Criminal Misuse of Handguns

1. Provisions

Under this proposal, section 924(c) of title 18, United States Code, would be modified so that the current mandatory sentence provisions and concurrent term prohibitions would be applicable to first offenders as well as second offenders. The term of the sentence could be lowered to a mandatory one-year level, with a discretionary five-year maximum, in order to increase its utility. <sup>68/</sup> Restrictions on plea bargaining would be imposed, and a prosecutor would have to explain in writing in a public document his reasons for dropping such a charge. Bail could be precluded for such offenses on the basis of a congressional finding that such offenders are per se a danger to the community. Trials could be placed on an expedited calendar, and, after conviction, release on appeal could be prohibited.

The scope of the section's coverage could be extended to include instruments that give the appearance of being a handgun.

LEAA funding could be made available to encourage the various states to enact and enforce similar legislation.

2. Consequences

These measures would have the effect of overcoming the reluctance of prosecutors and courts to charge and sentence for relatively minor offenses which happen to

<sup>68/</sup> Much like the situation with regard to the past marijuana laws, harsh mandatory penalties in the handgun control area might lead to non-enforcement and ineffectiveness rather than general deterrence. They might also lead to judicial dismissals of cases on tenuous legal grounds in order to avoid inappropriately severe consequences, thereby causing unfortunate case-law precedents.

involve a handgun, and would provide penalties of sufficient magnitude and certainty to ensure a considerably greater deterrent effect than is common under the criminal justice system as a whole.

As the history of special offender provisions has established, long mandatory sentences tend to be disfavored by both prosecutors and courts. The disfavor stems in part from a belief that justice requires the tailoring of sentences not only to the circumstances of the crime but to the offender and his circumstances as well. There can be no doubt that such disfavor does operate to hinder the effectiveness of the type of program envisioned in section 924(c). Where such sentences are reduced to a reasonable minimum level, however, the certainty of punishment is enhanced since the charges carrying the mandatory term are more likely to be brought, and whatever deterrent effect such provisions have is similarly enhanced.

Elimination of concurrent sentences, when coupled with a ban on plea bargaining, may have the effect of promoting more jury trials, since a defendant who has the possibility only of consecutive sentences may feel that he has little to lose and something to gain by trying for a favorable verdict on one of the charges.

### 3. Costs

The approach would probably necessitate a moderate increase in appropriations for prosecutive, judicial, and penal purposes.



## V. Constitutional Considerations Involved in Approaches to Alleviate the Problem

Any proposal to prohibit, regulate, or otherwise control the possession, use, or sale of handguns raises constitutional questions. Appendix F sets forth at some length the constitutional issues that might be expected to be raised with regard to handgun control legislation in general, as well as constitutional issues that might be raised with regard to certain specific approaches to the problem.

It appears that any handgun control proposal would raise constitutional questions about the reach of congressional power, including: (1) whether Congress has the requisite power to restrict the sale, use, or possession of handguns under its authority to regulate interstate commerce; and (2) whether Congress has authority to regulate handguns under the "Necessary and Proper" Clause. Any handgun control proposal would also raise questions about constitutional restrictions, including: (1) whether the regulation of handguns contravenes the Second Amendment's "right to bear arms" provision; and (2) whether a handgun control statute might in some way violate an individual's "right of privacy." A proposal to regulate handguns which is selective in its operation and effect might raise other constitutional issues: (1) whether the Commerce Clause prevents the Congress from choosing a regulatory means which has a non-uniform effect across the country; and (2) whether a statutory scheme that is selectively operative on particular localities violates either due process or equal protection guarantees. Finally, legislation that would put an excise tax on handguns would raise two constitutional questions: (1) whether Congress may impose an excise tax on handguns that is not apportioned according to population; and (2) whether Congress may impose an excise tax on handguns for the purpose of raising the cost of inexpensive handguns to a certain minimum.

It appears that all such challenges would be unsuccessful and that handgun control legislation in general, as well as the specific approaches noted above, would be held to be constitutional.

Appendix A

## STATISTICAL ESTIMATE ON UNITED STATES CONSUMPTION

## EXPENSE

Year	Imports	Value	Value	Value	Domestic
1923 - 1968	5,303,124	1/	5,199,234	2,572,413	36,793,421
1969	4,051,621	2/	3,624,712	287,951	32,430,212
1970	3,781,127	3/	3,351,955	385,655	31,915,735
1971	3,777,170	4/	3,351,955	515,719	31,815,127
1972	3,777,170	5/	3,351,955	515,719	31,815,127
1973	3,777,170	6/	3,351,955	515,719	31,815,127
1974	3,777,170	7/	3,351,955	515,719	31,815,127
Totals	5,155,180		4,463,941	5,142,652	45,830,634

## EXPENSE

Totals by type of firearm

1/

2/

3/

4/

5/

6/

7/

## EXPENSE

50,209,635

135,819,920

## EXPENSE

45,357,510

1/ From the Staff Report to the ATF and Commission on the Causes and Prevention of Violence.

2/ ATF Quarterly Importation Statistical Reports and ATF estimates on domestic manufacture based on industry sources.

3/ ATF Quarterly Importation Statistical Reports and ATF estimates on domestic manufacture based on industry sources.

4/ ATF Quarterly Importation Statistical Reports and ATF estimates on domestic manufacture based on industry sources.

5/ These values do not include ammunition (born out in service, seized or exported); antique firearms or firearms manufactured for Armed Forces consumption.

6/ ATF Quarterly Importation and Domestic Statistical Reports.

7/ These values do not include ammunition (born out in service, seized or exported); antique firearms or firearms manufactured for Armed Forces consumption.

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## Statistical Estimate on United States Gun Density

5/ Above refers to attrition factors. In order to validly determine gun density, these firearms which are no longer in the private inventory should be subtracted. It is our estimate that, in recent years, approximately 250,000 firearms are annually either destroyed, seized as contraband, worn out in service or exported. This figure has not been included in the above tabulation since many firearms have been brought into the United States as war trophies as a result of our participation in World War I, World War II, Korea and Vietnam. It is our further estimation that 35.2 million troops were conscripted in those wars which resulted in the unrecorded importation of not less than 8.6 million firearms.

Other Comments

- (1) FFA Firearms - The gun density charts do not reflect the 1/2 million National Firearms Act weapons (machineguns, submachineguns, short barrel rifles and shotguns and destructive devices currently registered.
- (2) CCA 60 Calibers - Since 1960, importation permits have been issued which would allow the importation of sufficient parts, then incorporated to automatic handgun frames, to manufacture 5,734,000 handguns which do not otherwise qualify for importation under the provisions of CCA 60. It is fully realized that the total quantity of these parts were not imported. Of those that were imported and subsequently assembled into complete firearms, the number would be reflected in domestic manufacturing statistics.
- (3) U.S. Military Firearms - Since 1967, the Department of Defense, via Defense Supply Agency, disposes of surplus military U.S. firearms by destruction. Prior to that time, regulations authorized the sale to the general public of certain non-automatic long guns and handguns. These sales are presently limited from 200 to 700 a year via the Director of Civilian Marksmanship. None of these figures have been treated in the consolidation.
- (4) Caliber and type correlations - It is estimated that between 37% (low) and 5% (high) of the rifles in the private inventory are of the rimfire variety (.22 caliber plus other minor rimfire calibers). In the handgun category, it is further estimated that 25% (low) to 45% (high) of the handguns presently manufactured are of the pistol category as opposed to the revolver category. Further, within the pistol category, 33% are in .22 caliber; 4% are in .25 caliber; 7% are in either .32 or .380 caliber with the remaining 16% being chambered for 9mm Parabellum and above. Within the revolver category, 34% are in the .22 caliber range; 9% are .32 caliber; 35% in .38 Special with the remaining 24% being chambered for .357 Magnum and higher.

## GUN LEGISLATION - 94TH CONGRESS

- I - Repeals the Gun Control Act of 1968  
 II - Increases penalties for crime w/gun, possession  
 III - Prohibits gun, ammunition restrictions  
 IV - Restrictions on the availability of handguns  
 V - Saturday Night Specials legislation  
 VI - Registration  
 VII - Licensing

SENATE BILLS

Bill No.	Sponsor(s)	I	II	III	IV	V	VI	VII
S. 141	McClure, Fannin, Garn	X						
142	McClure, Fannin, Garn		X					
143	McClure			X				
216	Domenici		X					
750	Hart				X			

HOUSE BILLS

Bill No.	Sponsor(s)	I	II	III	IV	V	VI	VII
H.R. 40	Bingham				X			
267	Boland					X		
354	Dellums				X		X	X
452	Flynt		X					
465	Fuqua	X	X					
486	Hechler		X					
510	Hillis		X					
524	Holt		X					
626	McClory						X	
638	Mikva				X			
696	Murphy (N.Y.)		X					
706	Murphy (N.Y.)				X			
1087	Symes, Hansen			X				
1136	Waggonner		X					
1187	Yates				X			

Bill No.	Sponsor(s)	I	II	III	IV	V	VI	VII
H.R. 1533	Metcalf				X			
1579	Ashbrook			X				
1601	Drinan				X			
1685	Gude					X	X	X
1904	Matsunaga				X			
1970	Quillen	X						
2075	Young		X					
2217	Johnson (Pa.)			X				
2313	Fauntroy				X			
2360	Symms, Hansen	X						
2433	Drinan					X	X	X
2598	Mathis			X				
2897	Ketchum			X				
2911	Murphy (Ill.)				X			
3021	Karth					X		
3086	Mikva, Rostenkowski, Bolling, Chisholm, Edwards (Cal.), Fraser, Harrington, Holtzman, Koch, Matsunaga, Mitchell (Md.), Moakley, Murphy (Ill.), O'Neill, Rangel, Rees, Roybal, Ryan, Solarz, Thompson, Waxman, C. Wilson (Cal.), Won Pat, Zeferetti				X			
3110	McEwen			X				
3154	Harrington				X			
3194	Annunzio				X			
3202	Bingham, Abzug, Badillo, Chisholm, D. Daniels, Edwards (Ca.), Holtzman, Koch, Mitchell (Md.), Moakley, Rangel, Richmond, Rosenthal, Stark, VanderVeen, Waxman, Won Pat, Yates				X			
3223	Edwards (Ala.)		X					
3225	McDonald (Ga.)		X					
3226	McDonald (Ga.)	X						



ANALYSIS OF TWENTY-THREE PROPOSED  
BILLS ON FIREARMS LEGISLATION

The following analysis has grouped together similar bills under headings indicating their primary thrust.

I. Repeal of Chapter 44, Title 18, U.S.C.

1. H.R. 465 -- introduced by Mr. Faqua
  - a. provides for the repeal of Chapter 44.
  - b. would revive and reenact as in effect immediately before its repeal the Federal Firearms Act.
  - c. would amend Chapter 53, Title 26, U.S.C. (National Firearms Act), to read as in effect immediately before the enactment of the Gun Control Act of 1968.
  - d. would add a new chapter to Title 18, U.S.C., which would impose certain penalties for the use, or carrying, of a firearm in any felony-- under both State and Federal law.
    1. would carry over the present provisions of sections 924(c)(1) and (2), and add a third penalty for the use of a firearm, or carrying of a firearm, during the commission of any felony where such use or carrying is unlawful under State law.

2. the definition of firearm as defined in section 921(a)(3) would be carried over, except an antique would not be excepted from this definition.
  3. would contain a definition for a destructive device.
2. H.R. 1970 -- introduced by Mr. Quillen
  3. H.R. 2360 -- introduced by Mr. Symmes
    - a. These bills provide simply for the repeal of Chapter 44, Title 18, U.S.C.
- II. Amendments to Chapter 44, Title 18, U.S.C., to Increase the Penalty Provisions of the Act.
4. H.R. 452 -- introduced by Mr. Flynt
    - a. would amend section 924(c) to penalize the use of any firearm transported in interstate or foreign commerce or affecting such commerce to commit, or carrying of such a firearm unlawfully during the commission of, any crime punishable by imprisonment for a term exceeding one year, where the offender is convicted of such crime in any State court.

- b. would amend the penalty provisions of section 924(c) to raise the minimum prison sentence to five years, and as to subsequent convictions, raise the minimum prison sentence to ten years with a maximum sentence of up to life imprisonment, and prohibit the 924(c) sentence from running concurrently with any other sentence imposed for such felony.
- 5. H.R. 486 -- introduced by Mr. Hechler
  - a. would amend section 924(c) to add item (3)-- penalizing the use of a firearm to commit any felony, or carrying of a firearm unlawfully during the commission of any felony, which use or carrying is unlawful to the law of the State in which it occurs.
  - b. would amend the penalty provisions of section 924(c) to lower the minimum prison sentence as to subsequent convictions to two years, and provide that the sentence imposed by section 924(c) would not run concurrently with any other sentence imposed for such felony.
- 6. H.R. 510 -- introduced by Mr. Hillis
  - a. would amend section 924(c) to penalize the use of any firearm transported in interstate or foreign

commerce or affecting such commerce to commit, or the carrying of such a firearm unlawfully during the commission of, any crime punishable by imprisonment for a term exceeding one year, where the offender is convicted of such crime in a State court.

- b. would amend the penalty provisions of section 924(c) to raise the minimum prison sentence to five years, and as to subsequent convictions would raise the minimum sentence to ten years with a maximum sentence of up to life imprisonment; and would prohibit the section 924(c) sentence from running concurrently with any other sentence imposed for such felony.
- c. would also amend Chapter 44 to lower the age restrictions, wherever they appear, from twenty-one years to eighteen years.
- d. would also amend Chapter 44 to eliminate the section 922(b)(5) recordkeeping provisions with respect to ammunition.

7. H.R. 524 -- introduced by Mrs. Holt

(is identical to H.R. 452, introduced by Mr. Flynt, discussed above)

## 8. H.R. 1136 -- introduced by Mr. Maggouner

- a. would amend sections 924(c)(1) and (2) to except the felony of manslaughter under 18 U.S.C. 1112 from those penalty provisions.
- b. would amend section 924(c) to raise the penalty provisions to imprisonment for not less than twenty years or more than forty years, except that if in the connection with, or as a result of, the commission of such felony death results to any person (other than a co-felon) such individual convicted of the felony shall be sentenced to death; and further would prohibit the imposition of this sentence to run concurrently with any other sentence imposed for such felony.
- c. would amend the D. C. Code as to one of its criminal statutes.
- d. would amend section 924(b) by changing the imprisonment penalty to not less than five years or more than twenty years, and providing that the court could not suspend the sentence imposed by that section or impose a probationary sentence.

## 9. H.R. 2075 -- introduced by Mr. Young

(is identical to H.R. 452, introduced by Mr. Flynt, discussed above)



III. Amendment to Chapter 44, Title 18, U.S.C.,  
to Exempt Ammunition from Federal Regulation.

10. H.R. 1579 -- introduced by Mr. Ashbrook

- a. would amend Chapter 44 by striking out the terms  
 "or ammunition" and "and ammunition" wherever they  
 appear.
- b. it should be noted that the effect of this amend-  
 ment would be to also eliminate all controls over  
 destructive device ammunition.

IV. Repeal of Title VII, Omnibus Crime Control and  
Safe Streets Act (18 U.S.C. Appendix), and makes  
Possession by Certain Proscribed Persons an  
Offense under Chapter 44.

11. H.R. 696 -- introduced by Mr. Murphy

- a. would add a new section to Chapter 44 indicating  
 the Congressional finding that possession of  
 firearms by certain persons affects commerce.
- b. would add a new section to Chapter 44 to make  
 possession by any person who (1) is under  
 indictment for, or convicted, in any court of,  
 a crime punishable by imprisonment for a term exceeding  
 one year; (2) is a fugitive; (3) has been discharged  
 under dishonorable conditions; (4) is an unlawful

- user of, or addicted to, certain controlled substances; (5) has been adjudicated a mental defective or committed to a mental institution; or is an alien illegally or unlawfully in the United States, unlawful and subject to a fine of \$10,000 or imprisonment not more than two years, or both.
- c. would make any employee, of such a person, who in the course of such employment possesses any firearm, subject to a fine of \$10,000 or imprisonment for not more than two years, or both.
- d. would add a new section to Chapter 44 excepting certain persons from the application of Chapter 44. (This section should be noted for it appears overly broad in its exception, for Chapter 44 contains other provisions besides the firearms disabilities.)
- e. would amend sections 922(d)(3), 922(g)(3) and 922(h)(3) to conform to codification of definitions of controlled substances.
- f. would repeal Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C., Appendix, §§ 1201 - 1203.
- g. this bill is similar to the administration bill of H.R. 1307 introduced in the 93d Congress, Second Session.

V. Registration and/or Licensing of Handguns  
or All Firearms.

A. Registration of Handguns

12. H.R. 626 -- introduced by Mr. McClory

- a. would amend Chapter 44, Title 18, U.S.C., to provide for the systematic registration of handguns.
  1. would be unlawful for a person to knowingly possess in interstate commerce or affecting such commerce a handgun not registered as required by these provisions.
  2. licensed dealers shall file applications for registration of handguns to purchasers at the time of sale; purchasers buying a handgun from other persons than dealers shall file an application for its registration prior to receipt of the handgun; all persons who possess handguns on effective date of Act shall file an application for registration of the handgun within 180 days.
  3. unlawful for a person to carry a handgun required to be registered without possessing a certificate of registration or temporary evidence of registration.

4. provides the procedures for sales of handguns and continued registration by purchasers.
5. contains a compensation provision for handguns voluntarily relinquished--of just compensation.
6. provides authority for the Secretary to prescribe an amnesty period.
7. contains a restrictive use of information provision--however, this provision appears to be insufficient under Haynes-Marchetti-Grosso standards.
8. authorizes the Secretary to determine which States or political subdivisions of States have enacted adequate permit systems for the possession of handguns, and publish in the Federal Register the names of such States and political subdivisions; and sets out minimum standards such State or local subdivisions must meet in order to be considered adequate in order to preempt Federal system.
9. provides that it shall be unlawful after January 1, 1976, for any person to sell or otherwise transfer any handgun or ammunition

to any person other than a licensee unless such sale or transfer is not prohibited or the transferee or purchaser exhibits a valid Federal gun license or exhibits a valid permit issued by a State or political subdivision having an adequate permit system.

10. Where adequate State or local permit systems are determined by the Secretary to exist, the provisions of the Federal registration provisions shall not apply to individuals covered by such permit systems.

B. Registration and Licensing of All Handguns

13. H.R. 1685 -- introduced by Mr. Gude
  - a. amends Chapter 44 to define the term handgun; that term is defined to include a combination of parts in the possession or under the control of a person from which a handgun can be assembled.
  - b. adds a new paragraph to section 922(b) to prohibit the sale of any handgun model unless such handgun model has been approved for sale or transfer by the Secretary.



- c. would provide for the exemption of Governmental entities, research organizations designated by the Secretary, and licensees for sale to authorized persons.
- d. provides a factoring system to determine whether a handgun qualifies for marketing.
  - 1. a 75 point system for pistols based on (1) length; (2) frame construction; (3) weight; (4) caliber; (5) safety features; and (6) miscellaneous equipment.
  - 2. a 45 point system for revolvers based on (1) barrel length; (2) frame construction; (3) weight; (4) caliber; and (5) miscellaneous equipment.
  - 3. in addition, a revolver must withstand certain weight-impact tests.
- e. authorizes Secretary to promulgate additional standards if necessary.
- f. provides procedures for judicial review of Secretary's determination that a handgun is not in compliance with relevant standards.
- g. would add a new section requiring registration of handguns.

1. prohibits certain persons from being eligible to register handguns.
- h. would add a new section prohibiting the possession or receipt of any handgun or handgun ammunition (except .22 caliber) unless such person has received a Federal handgun license.
  1. prohibits certain persons from being issued a license.
  2. provides for judicial review of the denial of handgun licenses by the Secretary.
- i. contains a restrictive use of information provision; however, this provision appears to be insufficient under the Haynes-Marchetti-Grosso standards.
- j. contains a compensation provision for handguns voluntarily relinquished--of reasonable value.
- k. authorizes the Secretary to declare such amnesty periods as needed.
1. requires persons possessing handguns to register same within 60 days after enactment of Act.

C. Registration and Licensing of All Firearms

14. H.R. 354 -- introduced by Mr. Dellums
  - a. would enact a new chapter in Title 18, U.S.C., providing for the registration of firearms.

1. would make it unlawful for a person to knowingly possess a firearm not registered.
  2. licensed dealers shall file applications for registration at the time of sale.
  3. all persons who possess firearms on effective date of Act shall file an application for registration within 180 days.
  4. provides procedures to be followed as to sales of firearms and ammunition.
  5. contains a compensation provision as to firearms voluntarily relinquished--of reasonable value.
  6. provides authority to prescribe an amnesty period.
  7. contains a restrictive use of information provision--however, this provision appears to be insufficient under the Haynes-Marchetti-Grosso standards.
- b. would amend Chapter 44, Title 18, U.S.C., by adding a new section after section 923 providing for State and Federal gun permits.

1. sets out minimum standards State permit systems must meet to preempt the Federal permit system--those States meeting these standards will be published in Federal Register.
  2. licensed dealers shall issue Federal gun permits; the permits are valid for three years.
  3. persons denied a Federal gun permit may appeal to the Secretary.
  4. after September 1, 1977, no person may possess a firearm or ammunition without a State or local gun permit or a Federal gun permit.
  5. actions by Secretary are subject to review de novo pursuant to Title 5, U.S.C., Chapter 7.
- c. would add a new chapter to Title 18, U.S.C., to completely prohibit the importation, manufacture, sale, transfer and possession of handguns and handgun ammunition.
1. provides a period of 180 days for persons in possession of handguns to dispose of them.

2. provides that Secretary may except pistol clubs licensed under this chapter.
3. excepts State licensed professional security guard services, and the United States or agencies thereof, or any State or political subdivision thereof.
4. establishes standards for licensing pistol clubs, and appeal procedures if license is denied or revoked.
5. compensation provision as to handguns voluntarily delivered to a law enforcement agency--payment equal to fair market value or \$25, whichever is more.

#### VI. Ban on Handguns

##### A. Saturday Night Specials

#### 15. H.R. 267 -- introduced by Mr. Boland

- a. would amend section 922 of Chapter 44, Title 18, U.S.C., to prohibit the manufacture, assembly, or importation for purposes of sale any handgun having basic structural components thereof made:
  1. of any material having a melting point of less than 1000° F.; or



2. of any material having an ultimate tensile strength of less than 55,000 lbs/sq. in.;

or

3. of any powdered metal having a density of less than 7.5 grams per cubic centimeter.

16. H.R. 706 -- introduced by Mr. Murphy

- a. would amend section 922(b) of Chapter 44, Title 18, U.S.C., by adding a new paragraph after paragraph 5 which would prohibit the sale or transfer of any firearm, other than a rifle or shotgun, which the Secretary determines to be unsuitable for lawful sporting purposes based upon the factoring system established pursuant to the section 925(d) import provisions.

B. Future Transactions in Handguns

17. H.R. 638 -- introduced by Mr. Mikva

- a. would enact a new chapter in Title 18, U.S.C., which would prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns.
  1. provides for the exemption of licensed manufacturers, dealers or importers, and the exemption of licensed pistol clubs.

2. excepts from the provisions of the Act all transactions with respect to Governmental entities and all transactions involving handguns which the Secretary determines to be unserviceable, not restorable to a firing condition, and intended for use as a curio, museum piece, or collector's item.
- b. contains a compensation provision for handguns voluntarily relinquished--payment equal to fair market value of handgun or \$25, whichever is more.
- c. provides for the licensing of pistol clubs, and establishes standards for licensing.
  1. provides for judicial review of Secretary's action in denying or revoking a license.
  2. would require the licensed pistol clubs to maintain prescribed records and make such records available for inspection at all reasonable times.
  3. would allow the Secretary to furnish requesting State agencies information with respect to identification of persons who are members of pistol clubs within such State, and descriptions of handguns possessed by such club.

18. H.R. 1187 -- introduced by Mr. Yates

(The provisions of this bill are similar to the provisions of H.R. 638, introduced by Mr. Mikva, discussed above. The analysis of that bill is, therefore, applicable to this bill also.)

19. H.R. 1533 -- introduced by Mr. Metcalfe

(The provisions of this bill are identical to the provisions of H.R. 1187, introduced by Mr. Yates, and similar to the provisions of H.R. 638, introduced by Mr. Mikva, discussed above. The analysis of that bill is, therefore, applicable to this bill also.)

20. H.R. 1904 -- introduced by Mr. Matsunaga

(The provisions of this bill are identical to the provisions of H.R. 1187, introduced by Mr. Yates, and similar to the provisions of H.R. 638, introduced by Mr. Mikya, discussed above. The analysis of that bill is, therefore, applicable to this bill also.)

C. Complete Ban on Possession of Handguns and Transactions in Handguns.

21. H.R. 40 -- introduced by Mr. Bingham

a. would enact a new chapter within Title 18, U.S.C., which would make it unlawful to import, manufacture, sell, buy, transfer, receive, or transport any handgun and handgun

ammunition, and would make it unlawful to possess any handgun or handgun ammunition after 180 days from the effective date of the chapter.

1. authorizes the Secretary to exempt transactions of handguns by licensees, and licensed pistol clubs, from the above prohibitions..
  2. transactions in handguns and handgun ammunition may be made only to persons or government agencies eligible to obtain and possess handguns under the chapter, or licensed pistol clubs.
- b. provides for the licensing of pistol clubs and sets out standards for licensing; provides for judicial review of the Secretary's decision to deny or revoke any such license.
- c. requires licensed pistol clubs to maintain prescribed records and keep such records available for inspection at all reasonable times.
- d. contains a restrictive use of information provision similar to that presently existing in 26 U.S.C. § 5848 (National Firearms Act).

- e. excepts from the chapter's prohibitions on handguns all governmental entities, State licensed professional guard services, and handguns manufactured before 1890 or any handgun which the Secretary determines is unserviceable, not restorable to firing condition, and intended for use as a curio, museum piece, or collector's item. (It is noted this latter exception as to certain handguns excepted only transactions in handguns and not the possession of such handguns.)
- f. contains a compensation provision for voluntary relinquishment of a handgun--payment equal to fair market value of handgun or \$25, whichever is larger.
  - 1. compensation provision in effect for only 180 days after effective date of chapter.

22. H.R. 1601 -- introduced by Mr. Drinan

(The provisions of this bill are identical to the provisions of H.R. 40, introduced by Mr. Bingham, discussed above. The analysis of that bill is, therefore, applicable to this bill also.)

23. H.R. 2313 -- introduced by Mr. Fauntroy

- a. would enact a new chapter in Title 18, U.S.C., which would make it unlawful for any person to import, manufacture, sell, buy, transfer, receive, transport or possess any handgun or handgun ammunition.



1. would except from the definition of handgun any handgun manufactured prior to January 1, 1890, or which the Secretary has certified is unserviceable, not restorable to firing condition, and to be used solely as a curio, museum piece, or collector's item.
  2. such exempted handguns may be sold or transferred only to licensees and those persons and governmental entities authorized under the chapter to so receive and possess, and to licensed pistol clubs.
- b. provides that every manufacturer, importer, or dealer who sells or transfers handguns and handgun ammunition, each licensed pistol club, and every State licensed professional pistol club shall maintain prescribed records, and make such records available for inspection at all reasonable times.
- c. provides for the licensing of pistol clubs, and provides criteria under which such license is to be issued.
1. provides for the judicial review of the Secretary's decision to deny or revoke such a license.
- d. exempts from the handgun prohibitions all Governmental entities, State licensed professional security guard services, and such licensed manufacturers, importers, dealers and licensed pistol clubs as the Secretary deems required.

- e. provides that persons who voluntarily surrender handguns shall not be prosecuted.
- f. would amend Chapter 1 of the Internal Revenue Code of 1954 to provide that individuals who voluntarily surrender a handgun during the six-month period beginning six months after enactment of this chapter shall be entitled to a tax credit for that year--equal to the fair market value of handgun or \$25, whichever is more.



Department  
of the  
Treasury  
**Internal  
Revenue  
Service**

## Factoring Criteria for Weapons

### Appendix E

#### Note:

The Internal Revenue Service reserves the right to preclude importation of any revolver or pistol which achieves an apparent qualifying score but does not adhere to the provisions of section 925(d)(3) of Amended Chapter 44, Title 18, U.S.C.

#### Pistol model \_\_\_\_\_

<i>Individual characteristics and factor allowance</i>	<i>Sub-total (points)</i>
--	-------------------------------

<b>Overall length</b>	
For each 1/4" over 6" (1 value)	_____

<b>Frame construction</b>	
Investment cast or forged steel (15 value)	_____
Investment cast or forged HTS alloy (20 value)	_____

<b>Weapon weight w/magazine (unloaded)</b>	
Per ounce (1 value)	_____

<b>Caliber</b>	
.22 short and .25 auto (0 value)	
.22 LR and 7.65mm to .380 auto (3 value)	_____
9mm parabellum and over (10 value)	_____

<b>Safety features</b>	
Locked breech mechanism (5 value)	_____
Loaded chamber indicator (5 value)	_____
Grip safety (3 value)	_____
Magazine safety (5 value)	_____
Firing pin block or lock (10 value)	_____

<b>Miscellaneous equipment</b>	
External hammer (2 value)	_____
Double action (10 value)	_____
Drift adjustable target sight (5 value)	_____
Click adjustable target sight (10 value)	_____
Target grips (5 value)	_____
Target trigger (2 value)	_____

#### Prerequisites:

- 1) The pistol must have a positive manually operated safety device.
- 2) The combined length and height must be in excess of 10" with the height (right angle measurement to barrel without magazine or extension) being at least 4" and the length being at least 6".

**Score achieved** \_\_\_\_\_

Qualifying score is 75 points

#### Revolver model \_\_\_\_\_

<i>Individual characteristics and factor allowance</i>	<i>Sub-total (points)</i>
--	-------------------------------

<b>Barrel length</b> (muzzle to cylinder face)	
Less than 4" (0 value)	
For each 1/4" over 4" (1/2 value)	_____

<b>Frame construction</b>	
Investment cast or forged steel (15 value)	_____
Investment cast or forged HTS alloy (20 value)	_____

<b>Weapon weight (unloaded)</b>	
Per ounce (1 value)	_____

<b>Caliber</b>	
.22 short to .25 ACP (0 value)	
.22 LR and .30 to .38 S&W (3 value)	_____
.38 special (4 value)	_____
.357 mag and over (5 value)	_____

<b>Miscellaneous equipment</b>	
Adjustable target sights (drift or click) (5 value)	_____
Target grips (5 value)	_____
Target hammer and target trigger (5 value)	_____

#### Prerequisites:

- 1) Must pass safety test.
- 2) Must have overall frame (with conventional grips) length (not diagonal) of 4 1/2" minimum.
- 3) Must have a barrel length of at least 3".

#### Safety test:

A Double Action Revolver must have a safety feature which automatically (or in a Single Action Revolver by manual operation) causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge. The safety device must withstand the impact of a weight equal to the weight of the revolver dropping from a distance of 36" in a line parallel to the barrel upon the rear of the hammer spur, a total of 5 times.

**Score achieved** \_\_\_\_\_

Qualifying score is 45 points

CONSTITUTIONAL CONSIDERATIONS INVOLVED  
IN APPROACHES TO HANDGUN CONTROL

March 26, 1975

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## A. Constitutional Basis for Federal Authority to Enact Handgun Controls

### 1. The Commerce Clause

The noun "commerce" in the Commerce clause determines the subjects to which the Congressional power extends. The verb "regulate" determines the type of authority that the Congress can exert. The scope of the "commerce" which the Congress may reach under the Commerce Clause is broad enough to cover guns. Under the Supreme Court's present construction of the "effect upon commerce" test, any activity which has any effect upon commerce, no matter how slight, may be regulated by the Congress. The Court has held that firearms have an effect upon commerce, and that therefore federal regulation of firearms is permissible under the Commerce Clause.

The Supreme Court recently reaffirmed the proposition that guns affect interstate commerce in United States v. Huddleston, 415 U.S. 814 (1974). In Huddleston the Court found that the Congress' enactment of the gun control provisions of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. 922, 924) was a proper exercise of the Commerce Clause because firearms have an effect on interstate commerce. Id. at 1273. The Court further found that Congress could regulate certain aspects of wholly intrastate dealings in firearms because of their effect on interstate commerce. Id. For other federal court decisions holding that firearms are a proper subject for a broad federal regulation under the Commerce Clause, see United States v. O'Neill, 467 F. 2d 1372 (1972); United States v. Crandall, 453 F. 2d 1216 (1st Cir. 1972); United States v. Ruisi, 460 F. 2d 153 (2d Cir. 1972); United States v. Menna, 451 F. 2d 982 (9th Cir. 1971). These cases also hold that Congress may reach intrastate transactions involving firearms on the theory that such transactions affect interstate commerce. 1/

Other cases which deal with subjects other than firearms similarly prompt the conclusion that Congress has an exceptionally broad area of authority under the Commerce Clause, certainly broad enough to regulate handguns. For

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example, the term "commerce" is not limited to commercial transactions, but includes all movement across state lines. Caminetti v. United States, 242 U.S. 470 (1971); Edwards v. California, 314 U.S. 160 (1941). Thus, Congress may regulate directly the movement of firearms across state lines whether the firearms are in the process of commercial distribution or in the possession of private owners. Indeed, Congress could prohibit such movement entirely, cf. Champion v. Ames, 188 U.S. 321 (1903), and has done so, in some respects, in the Gun Control Act of 1968. Congress also has authority to prohibit firearms from being used in such a way as to burden interstate commerce (cf. 18 U.S.C. 1951).

From a constitutional standpoint, it is irrelevant that relatively few of the millions of handguns in this country would ever be used to injure interstate commerce, or that a substantial portion of those handguns in private hands might never cross a state line. All guns have the capacity for harm, and all have the capacity for movement. The Constitution does not impose on Congress the task of devising a system of regulation covering only those specific handguns with a demonstrable potential for movement.

As noted, federal power under the Commerce Clause extends to purely local or intrastate transactions, as well as those that are interstate in nature. Congress may regulate intrastate activities "which are so commingled with or related to interstate commerce that all must be regulated if the interstate commerce is to be effectively controlled." United States v. Darby, 312 U.S. 160, 121 (1941). cf. Wickard v. Filburn, 317 U.S. 111 (1942). Under its commerce power, Congress may also regulate activities which, viewed in isolation, have minimal effects on interstate commerce, whenever the total incidence of all such activities, "if left unchecked, may well become far-reaching in its harm to commerce." Polish National Alliance v. Labor Board 322 U.S. 643, 648 (1944); Katzenbach v. McClung, 379 U.S. 294, 301 (1964). See also Title I of The Truth in Lending Act, P.L. 90-321.

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It is immaterial for Commerce Clause purposes whether shipments of firearms are being prepared for, are in the process of, or have completed, their interstate movement. The effect of interstate commerce, not the situs of the transaction, is what sustains the federal power. United States v. Sullivan, 332 U.S. 689, 698 (1948). One of the furthest extensions of this doctrine was reached in Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964), where the Supreme Court upheld provisions of the 1964 Civil Rights Act as falling within the Commerce Clause. The Court's major determination was whether a rational basis existed for finding that the evil addressed by the Act (discrimination by motels) affected commerce. Id. at 258. The power of Congress to regulate local or intrastate activities which might have a harmful effect on interstate commerce was similarly upheld in Katzenbach v. McClung, 379 U.S. 294 (1964) (civil rights), and Perez v. United States, 402 U.S. 146 (1971) (loan-sharking).

The basic issue under the Commerce Clause thus becomes whether Congress might have a rational basis for finding that firearms have an effect on commerce. Darby, supra at 121; Heart of Atlanta, supra at 261-62. The fact that most firearms are eventually sold in interstate commerce will satisfy the basis for a finding that such sales affect interstate commerce. Under existing rulings, even a small portion of the supply could be sold and still affect commerce. Moreover, the fact that existing handguns may so easily be transported across state lines strengthens the presumption of interstate effect.

## 2. The Necessary and Proper Clause

Congress has authority to enact legislation to assist the law enforcement activities of the federal government. As the Supreme Court stated in Tennessee v. Davis, 100 U.S. 257, 263 (1880):

Congress is invested with power to make all laws necessary and proper for carrying into execution not only all other powers previously specified, but also all other powers vested by the Constitution in the government of the United States, or in any department or office thereof.

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Among these other powers is the power to enforce the laws of the United States and to preserve the "peace of the United States." See Logan v. United States, 144 U.S. 263, 283-85 (1892); In re Neagle, 135 U.S. 1, 69 (1890). Handgun control legislation plainly would be considered a necessary and proper means of preventing crime, apprehending criminals, and preserving the peace.

B. Possible Constitutional Restrictions on Federal Authority to Enact Handgun Controls

1. The Second Amendment "Right to Bear Arms"

Persons opposed to further restrictions on access to firearms typically oppose proposed legislation on the ground that it violates the Second Amendment. However, neither Congress nor the courts have interpreted the amendment as prohibiting federal regulation of firearms.

The legislative history of several early gun control statutes reveals that previous Attorneys General have concluded that the Second Amendment is no bar to gun control legislation. (See Hearings on H.R. 9066, 73d Cong., 18-19 (April 16, 1934).) Congressional committees also have generally rejected Second Amendment arguments in considering such bills. (See Hearings before Senate Committee on Commerce on S. 3, 74th Cong., (April 16, 1935).)

This declination to accept the Second Amendment arguments is justified by the fact that the Supreme Court and lower courts have consistently held that the amendment was not, as the First Amendment was, adopted with individual rights in mind. Rather, the Second Amendment was a prohibition upon federal action which would interfere with the state militia. Since the "well regulated militia" referred to in the Second Amendment is at the present time the organized militia of the several states (National Guard), federal law regulating the private possession or sale of handguns should in no way interfere with this militia. See United States v. Miller, 307 U.S. 174 (1939), stating that the right to carry arms is applicable only to the arms that a "well regulated militia" would carry. See also United States v. Tot, 131 F. 2d 261 (3d Cir. 1942); Cases v. United States, 131 F. 2d 916 (1st Cir. 1942); United States v. Adams, 11 F. Supp. 216 (S.D. Fla. 1935).

Recently, in upholding the 1968 amendments to the National Firearms Act, the Court found no need even to address Second Amendment questions. United States v. Freed, 401 U.S. 601 (1971).

Although the Constitution cannot be said to be a source of a "right" to keep and bear arms, its wording indicates that it intended a recognition of a pre-existing right. Indeed, a few older state cases had gone so far as to hold that all citizens had the unabridgable right to bear arms for self-protection. See Bliss v. Commonwealth, 2 Litt. (Ky) 90, 13 Am. Dec. 251 (1822). But the Supreme Court has stated that the Second Amendment "is not infringed by laws prohibiting the carrying of concealed weapons," Robertson v. Baldwin, 165 U.S. 275, 282 (1897), and the overwhelming majority of states follow the doctrine that no body of citizens other than the organized state militia (or other military organization provided for by law) may be said to have a constitutional "right" to bear arms. City of Salina v. Blaksley, 72 Kan. 230, 83P. 619 (1905); Commonwealth v. Murphy, 44 N.F. 138 (Mass. 1896). See also Presser v. Illinois, 116 U.S. 252 (1886).

## 2. The "Right of Privacy"

Although the Constitution does not explicitly mention any right of privacy, a number of Supreme Court decisions have recognized the existence of an area of privacy which is beyond the legitimate reach of government intrusion. It should be expected that any statute restricting the possession of handguns will be challenged on the basis that it touches a zone of privacy that may not be invaded under the Constitution. Such an attack will probably fail.

In varying contexts, the Court or individual Justices have found the roots of a right of privacy in the First Amendment, Stanley v. Georgia, 394 U.S. 557, 564 (1969); in the Fourth and Fifth Amendments, Terry v. Ohio, 392 U.S. 1, 8-9 (1968); in the penumbras of the Bill of Rights, Griswold v. Connecticut, 381 U.S. 479, 484; in the Ninth Amendment, id. at 486; or in the concept of liberty guaranteed by the Fourteenth Amendment, Roe v. Wade, 410 U.S. 115, 153 (1973).



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These decisions, and others, make it doubtful that possession of a handgun would be considered a right which falls within the Constitution's zone of privacy. Only personal rights that can be deemed "fundamental" or "implicit in the concept of ordered liberty" are included in the guarantee of personal privacy. Palko v. Connecticut, 302 U.S. 319, 325 (1937). Handgun possession cannot be said to be such a "fundamental" right.

Moreover, in those cases where the Court has recognized a protectable right of privacy, the activities so protected usually have had an intimate connection with the person. See Skinner v. Oklahoma, 316 U.S. 535, 541-542 (1942) (procreation); Eisenstadt v. Baird, 405 U.S. 438, 453 (1972) (contraception); Loving v. Virginia, 388 U.S. 1, 12 (1967) (marriage); Prince v. Massachusetts, 321 U.S. 158, 166 (1944) (family relationships); Roe v. Wards, 410 U.S. 115, 155 (1973) (abortion). Handgun possession is highly unlikely to be classified by the Court in the same category as such distinctly personal rights.

If, however, the courts should accept the proposition that handgun possession is protected by a right of privacy, such possession, as a "fundamental" right (see Roe v. Wade, supra at 155), could be justifiably limited only as a matter of "compelling state interest." Shapiro v. Thompson, 394 U.S. 618, 634 (1969). Any handgun control legislation would then have to be narrowly drawn to express the legitimate interests of the government at stake. Aptheker v. Secretary of State, 378 U.S. 500, 508 (1964); Griswold v. Connecticut, supra at 485.

#### C. Constitutional Considerations Relevant to Handgun Controls that are Triggered by Crime Rates to Apply in Limited Geographic Areas

##### 1. Commerce Clause Considerations

Although Congress is empowered by the Commerce Clause to regulate the possession, use, and sale of handguns, a question may arise whether the Commerce Clause itself places any restriction on the type of authority that the Congress can exert. Put another way, if an activity is an otherwise proper subject for regulation under the Commerce Clause (i.e.

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handguns), may the means by which Congress chooses to regulate the activity (i.e. a statute which is selectively applicable) subject to challenge by reference to Commerce Clause standards, or may a challenge be based only on other Constitutional limitations? It appears that Congress may exercise its power to regulate under the Commerce Clause in any way it determines to be appropriate, and that such regulation is not limited by the Commerce Clause but only by other Constitutional restrictions (such as the due process clause). The Commerce Clause is blind to the means of implementation chosen.

In Gibbons v. Ogden, 9 Wheat. (22 U.S.) 1 (1824), Chief Justice John Marshall first rejected the notion that the power to "regulate" under the Commerce Clause was limited. Once commerce was concerned, in the Marshall view, the Congress could lay down whatever limits and restraints it chose. Said Marshall for a unanimous Court:

What is the commerce power? It is the power to regulate; that is, to prescribe the rule by which commerce is to be governed. This power . . . is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the Constitution. /Id. at 196./

Thus, if an activity is a proper subject for regulation under the Commerce Clause the power to regulate authorizes any type of regulatory scheme that does not violate another provision in the Constitution.

Subsequent decisions by the Supreme Court have reaffirmed the proposition that the Commerce Clause places no restrictions on the means Congress may choose to regulate activities that affect interstate commerce. In Carolene Products Co. v. United States, 323 U.S. 18 (1944), the Court stated: "Where Congress exercises its delegated power over interstate commerce, the method which it employs to carry out its purposes is beyond attack . . . ." Id. at 31. See also United States v. Darby, 312 U.S. 100 (1941), and Mulford v. Smith, 307 U.S. 38 (1939), which hold in part that so long as it does not infringe some other constitutional prohibition, "any" regulation designed to prevent the flow of commerce from working

harm is within the plenary power conferred on Congress by the Commerce Clause. Cf. Kentucky Whip and Collar Co. v. Ill. Cent. R. Co., 299 U.S. 334, 345-347 (1937). 2/

Consequently, the fact that a handgun control law might be applicable only in selected areas is irrelevant from the standpoint of Commerce Clause. The leading analogous case on this issue is Currin v. Wallace, 306 U.S. 1 (1939). That case involved the Tobacco Inspection Act which authorized the Secretary of Agriculture to establish standards for the marketing of tobacco in interstate commerce and to designate those markets where the standards were to be applied. The Secretary designated twenty-three markets throughout the country. The plaintiffs contended, *inter alia*, that to permit undesignated markets to operate without the standards exceeded the power of Congress. The Court, speaking through Chief Justice Hughes, rejected this contention, stating:

To hold that Congress in establishing its regulation is restricted to the making of uniform rules would be to impose a limitation which the Constitution does not prescribe. There is no requirement of uniformity in connection with the commerce power (Art. I, §8, par. 3) such as there is with respect to the power to lay duties, imposts and excises (Art I. §8, par. 1).

\* \* \* \*

. . . It is the essence of the plenary power conferred that Congress may exercise its discretion in the use of the power. Congress may choose the commodities and places to which its regulation shall apply . . . . As to such choices the question is one of wisdom and not of power. /Id. at 14.7

See also Secretary of Agriculture v. Central Roig Refining Co., 338 U.S. 604, 616 (1950), in which the court observed that the Commerce Clause does not "impose requirements of geographic immunity. Congress may devise . . . a national policy with due regard for the varying and fluctuating interests of different regions." 3/

## 2. Due Process Considerations

Since the only issue under the Commerce Clause is whether handguns are a subject matter which have an interstate character, the means chosen by Congress to regulate this subject matter must be tested against other provisions of the Constitution. If Congress should choose to regulate handguns by means of a triggering mechanism which has a non-uniform effect, the chief constitutional hurdle would be the Due Process Clause of the Fifth Amendment. As the Supreme Court stated when addressing the constitutionality of another statute which was applicable only in selected areas, "not even resort to the Commerce Clause can defy the standards of due process." Roig, supra at 616.

### a. Compelling State Interest

If the right to possess handguns were to be found by the Court to constitute a "fundamental" right, either because it is protected by the Second Amendment's right to bear arms or by the evolving right of privacy, any statute restricting the right in various parts of the country would have to be tested against the "compelling interest" standard. This is a far stricter standard than the "reasonable basis" test, making the statute's chances of surviving constitutional attack less likely. Even so, the argument might successfully be made that the number of crimes committed with handguns is so high, and the growing problem of handgun-related homicides so grave, that the United States in fact has a compelling interest in controlling their use and possession, at least in certain pockets of intense handgun misuse. However, since it is doubtful that handgun possession would ever be considered a fundamental right, it is necessary instead to test a selectively-operative handgun control statute against the "rational basis" standard.

### b. Rational or Reasonable Basis

To sustain an attack on substantive due process grounds, a statute regulating handguns only in areas meeting specified criteria (a crime rate above a set figure) must not be arbitrary, oppressive, or overbroad; it must seek to accomplish a constitutionally justifiable goal; and it must be an exercise of the government's police power having a reasonable relation to the end sought to be achieved. As the Court first stated in McCulloch v. Maryland, 4 Wheat. 316, 412 (1819):

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Let the end be legitimate, let it be within the scope of the Constitution, and all means are appropriate, which are plainly adapted to that end, which are not prohibited, but consist of the letter and spirit of the Constitution, are constitutional.

A statute that does not regulate handguns in the same manner throughout the country is, of course, discriminatory in its impact. Substantive due process is satisfied, however, if use of such selectively applicable regulation is necessary to the accomplishment of an otherwise valid purpose. See generally Application of Griffiths, 413 U.S. 717 (1973); Weber v. Aetna Cas. and Sur. Co., 406 U.S. 164 (1972). A discriminatory handgun statute appears to have a permissible and supportable purpose -- rather than extend the handgun restrictions indiscriminately across the country, the law instead will apply only to those sections of the country that have need for such controls. The crucial question would be whether the means chosen to achieve this goal have a reasonable basis.

The Supreme Court has previously addressed statutes that apply selectively rather than uniformly. In State of Missouri v. Lewis, 101 U.S. 22 (1879), the Court allowed a state to establish one system of law in one portion of its territory, and a separate system in another. In West Coast Hotel Co. v. Parrish, 300 U.S. 379 (1937), the Court held that since the legislature is free to recognize degrees of harm, it may confine its restrictions to those classes of cases where the need is the clearest. Thus under the Parrish case it is permissible means to use a law so that it affects the evil where it is most felt. A statute that restricts handguns only in areas where the need for control is the greatest would therefore be supportable. See also McGowan v. Maryland, 366 U.S. 420 (1961), giving legislatures wide discretion in enacting laws which affect some groups more than others, and stating that "legislatures are presumed to have acted within their constitutional power despite the fact their laws result in some inequality." Id. at 427.



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The Court has also indicated that it does not violate due process if the means by which the statute selects areas for its operation occasionally exclude certain localities where the need for the statute is present. See Flemming v. Nestor, 363 U.S. 603 (1960), holding that it is constitutionally irrelevant that a section of the Social Security Act did not extend to all to whom the postulated rationale for the section might in logic apply.

The statute most nearly analogous to a selective handgun control law is the 1965 Voting Rights Act, which was held constitutional in South Carolina v. Katzenbach, 383 U.S. 301 (1963). 4/ That Act provides for certain federal intervention when two characteristics are present: the use of tests and devices for voter registration, and a voting rate in the 1964 Presidential election at least 12 points below the national average. Thus, like the kind of handgun control approach in question, the Act is selective in its operation, and is triggered only when certain criteria are met. South Carolina claimed in Katzenbach that Congress could do no more than forbid violations of the Fifteenth Amendment in general terms and that the task of fashioning specific remedies and applying them to particular localities must be left to the courts. In disposing of this argument the Court stated:

The Act intentionally confines these remedies to a small number of States and political subdivisions . . . . This, too, was a permissible method of dealing with the problem. Congress had learned that substantial voting discrimination presently occurs in certain sections of the country, and it knew no way of accurately forecasting whether the evil might spread elsewhere in the future. In acceptable legislative fashion, Congress chose to limit its attention to the geographic areas where immediate action seemed necessary . . . . The doctrine of the equality of States, invoked by South Carolina, does not bar this approach, for that doctrine applies only to the terms upon which States are admitted to the Union, and not to the remedies for local evils which have subsequently appeared. /Id. at 328-329./

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Katzenbach held that the coverage formula employed by the Voting Rights Act was a rational means of addressing a legitimate problem located in certain geographically limited areas of the country. Although Katzenbach dealt with a statute designed to prevent the isolated violation of a constitutional right, its rationale should be sufficient to uphold a handgun control statute designed to prevent excessive, localized misuse.

If the statute were to operate so that the restrictions would continue for a set period of time after the factors triggering the restrictions were no longer present, the statute would still meet constitutional standards as long as there is a rational basis for the continuation of the restrictions.

A problem with any statute that becomes operative only when certain criteria are met is that the criteria may be found overbroad. In determining when the statute's restrictions are to take effect, Congress must be fairly certain that the criteria it chooses do not unintentionally include areas that have no need for handgun control. If the criteria are too broad, a court might conclude that the means chosen to effectuate the statute's purpose, which is handgun control only in those areas most in need, are not reasonable. 5/

### 3.. Equal Protection Considerations

Any statutory scheme imposing restrictions on some people and no others would be subject to equal protection challenges. 6/ However, as with due process attacks, such selective operation would be sustained unless it were patently arbitrary and bore no rational relationship to a legitimate government interest. See Frontiero v. Richardson, 411 U.S. 677 (1973); U.S. Dept. of Agriculture v. Moreno 413 U.S. 528 (1973).

Past Supreme Court cases have construed the Equal Protection Clause of the Fourteenth Amendment in such a way as to indicate that a handgun control statute might constitutionally prohibit use in one locality, while permitting use in another.

In Hadacheck v. Sebastian, 239 U.S. 394 (1915), the Court held that prohibiting the manufacture of brick within a designated area of a city does not deny equal protection to the owner of a brickyard within the prohibited district, even though brick-hards in other localities in the city were not regulated. See also Ohio ex rel. Lloyd v. Dollison, 194 U.S. 445 (1904), holding that equal protection was not denied by a law under which the trafficking in intoxicating liquors was a crime in certain territories but not in others.

The rationale underlying these cases would sustain the constitutionality of a selectively-applied handgun control statute -- the Equal Protection Clause of the Constitution relates to equality in application to persons, not areas. Griffin v. County School Board of Prince Edward County, 377 U.S. 218 (1964).

#### D. Constitutional Considerations Relevant to an Excise Tax Approach to Handgun Control

Congress may constitutionally impose an excise tax on the manufacture, sale, or consumption of commodities. Flint v. Stone Tracy Co., 220 U.S. 107, 150-152 (1911). Since a federal excise tax is not a "direct" tax -- a tax levied upon property simply because of ownership -- it is not required to be apportioned according to population. Ibid. The only two constitutional limitations upon the right of Congress to levy excise taxes are that (1) they must be levied for the public welfare, and (2) they must be uniform throughout the United States. Id. at 153.

The fact that the purpose and effect of an excise tax might be to raise the cost of handguns to a certain minimum would not render the tax unconstitutional. The disparity in the level of the excise tax imposed (dependent on the price of the handgun) would have a rational basis because it would be geared to the purpose of eliminating from the market the kinds of handguns that cause the most social damage. It therefore would be constitutional. See e.g., Lehnhausen v. Lake Shore Auto Parts Co., 410 U.S. 356 (1973).

## FOOTNOTES

- 1/ The Supreme Court's decision in United States v. Bass, 404 U.S. 336 (1971) is not inconsistent with the above cases. The statute under consideration in Bass, Title VII of the Omnibus Crime Control and Safe Streets Act (18 U.S.C. App. 1202(a)), contained the phrase "in commerce or affecting commerce." The Court held that the inclusion of this phrase in the statute required the government to allege and prove specifically that possession of firearms is "in or affecting commerce." The Bass decision turned on the ambiguous wording of Title VII, as well as the fact that the Court could not find any significant legislative history indicating whether Congress had found that firearms affected commerce. As the Court pointed out in Huddleston, to avoid a Bass-type result all the Congress need do is eliminate the phrase "in commerce or affecting commerce" in the operable sections of statute, and make findings of firearms' connection with interstate commerce either in the legislative history (see S. Rep. No. 1097, 90th Cong., 2d Sess. (1968)), or at the beginning of the statute (see e.g. Perez v. United States, 402 U.S. 146, 155 (1971)).
- 2/ The power to regulate includes the power to prohibit (Champion v. Ames, 188 U.S. 321 (1903)), and restrain and limit (Gibbons v. Ogden, 9 Wheat. (22 U.S.) 1 (1824)), as well as the power to take positive measures to foster and promote commerce (Dayton-Goose Creek Co. v. United States, 263 U.S. 456, 478 (1924)).
- 3/ Other Supreme Court cases have arrived at similar results. See Heart of Atlanta Motel v. United States, 379 U.S. 241, 257 (1964); Hoke v. United States, 227 U.S. 308 (1913). See also United States v. Sacco, 491 F. 2d 995 (9th Cir. 1974).
- 4/ The Clean Air Act of 1970, 42 U.S.C. 1857 et seq., also is similar to the approach in question in that the Act's federal restrictions take effect only when localities violate federally-set emission criteria.

cont.

- 5/ A statute that would confiscate weapons without compensation might be vulnerable to attack under due process doctrines also. However, see Samuels v. McCurdy, 267 U.S. 188 (1925), upholding confiscation of liquor which, though lawfully obtained, could not lawfully be possessed after enactment of a state prohibition law. The Court emphasized that, as to property which the state might prohibit entirely, the public interest could outweigh the interest of the individual owner.
- 6/ The Equal Protection Clause of the Fourteenth Amendment was generally incorporated into the Due Process Clause of the Fifth Amendment in Bolling v. Sharpe, 347 U.S. 497 (1954).



## CHANGES IN EXISTING LAW MADE BY THE FORD GUN BILL, S. 2186

## TITLE 18. -- CRIMES AND CRIMINAL PROCEDURE

\* \* \* \* \*

Chapter 40. -- IMPORTATION, MANUFACTURE, DISTRIBUTION, AND  
STORAGE OF EXPLOSIVE MATERIALS.

\* \* \* \* \*

## §842. Unlawful acts.

(a) It shall be unlawful for any person --

(1) to engage in the business of importing, manufacturing, or dealing in explosive materials without a license issued under this chapter;

(2) knowingly to withhold information or to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive for the purpose of obtaining explosive materials, or a license, permit, exemption, or relief from disability under the provisions of this chapter; and

(3) other than a licensee or permittee knowingly --

(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials, except that a person who lawfully purchases explosive materials from a licensee in a State contiguous to the State in which the purchaser resides may ship, transport, or cause to be transported such explosive materials to the State in which he resides and may receive such explosive

materials in the State in which he resides, if such transportation, shipment, or receipt is permitted by the law of the State in which he resides; or

(B) to distribute explosive materials to any person (other than a licensee or permittee) who the distributor knows or has reasonable cause to believe does not reside in the State in which the distributor resides..

(b) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person except --

(1) -- a licensee;

(2) a permittee; or

(3) a resident of the State where distribution is made and in which the licensee is licensed to do business or a State contiguous thereto if permitted by the law of the State of the purchaser's residence.

(c) It shall be unlawful for any licensee to distribute explosive materials to any person who the licensee has reason to believe intends to transport such explosive materials into a State where the purchase, possession, or use of explosive materials is prohibited or which does not permit its residents to transport or ship explosive materials into it or to receive explosive materials in it.

(d) It shall be unlawful for any licensee knowingly to distribute explosive materials to any individual who:

- (1) is under twenty-one years of age;
- (2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
- (3) is under indictment for a crime punishable by imprisonment for a term exceeding one year;
- (4) is a fugitive from justice;
- (5) is an unlawful user of marihuana [(as defined in section 4761 of the Internal Revenue Code of 1954)] or any depressant or stimulant [drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act)] substance or narcotic drug [(as defined in section 4721(a) of the Internal Revenue Code of 1954); or] as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

[(6) has been adjudicated a mental defective;]

(6) has been adjudicated as mentally incompetent or has been committed to a mental institution; or

(7) being an alien, is illegally or unlawfully in the United States.

(e) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

(f) It shall be unlawful for any licensee or permittee willfully to manufacture, import, purchase, distribute, or receive explosive materials without making such records as the Secretary may by regulation require, including, but not limited to, a statement of intended use, the name, date, place of birth, social security number or taxpayer identification number, and place of residence of any natural person to whom explosive materials are distributed. If explosive materials are distributed to a corporation or other business entity, such records shall include the identity and principal and local places of business and the name, date, place of birth, and place of residence of the natural person acting as agent of the corporation or other business entity in arranging the distribution.

(g) It shall be unlawful for any licensee or permittee knowingly to make any false entry in any record which he is required to keep pursuant to this section or regulations promulgated under section 847 of this title.

(h) It shall be unlawful for any person to receive, conceal, transport, ship, store, barter, sell, or dispose of any explosive materials knowing or having reasonable cause to believe that such explosive materials were stolen.

(i) It shall be unlawful for any person --

(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to marijuana [(as defined in section 4761 of the Internal Revenue Code of 1954)] or any depressant or stimulant [drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act)] substance or narcotic drug [(as defined in section 4731(a) of the Internal Revenue Code of 1954); or] as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

[(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;]

(4) who has been adjudicated as mentally incompetent or has been committed to a mental institution; or

(5) who, being an alien, is illegally or unlawfully in the United States;

to ship or transport any explosive in interstate or foreign commerce or to receive any explosive which has been shipped or transported in interstate or foreign commerce.

(j) It shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Secretary. In promulgating such regulations, the Secretary shall take into consideration the class, type, and quantity of explosive materials to be stored, as well as the standards of safety and security recognized in the explosives industry.



(k) It shall be unlawful for any person who has knowledge of the theft or loss of any explosive materials from his stock, to fail to report such theft or loss within twenty-four hours of discovery thereof, to the Secretary and to appropriate local authorities.

§843. Licenses and user permits.

(a) An application for a user permit or a license to import, manufacture, or deal in explosive materials shall be in such form and contain such information as the Secretary shall by regulation prescribe. Each applicant for a license or permit shall pay a fee to be charged as set by the Secretary, said fee not to exceed \$200 for each license or permit. Each license or permit shall be valid for no longer than three years from date of issuance and shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit and upon payment of a renewal fee not to exceed one-half of the original fee.

(b) Upon the filing of a proper application and payment of the prescribed fee, and subject to the provisions of this chapter and other applicable laws, the Secretary shall issue to such applicant the appropriate license or permit if --

(1) the applicant (including in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of

the corporation, partnership, or association) is not a person to whom the distribution of explosive materials would be unlawful under section 842(d) of this chapter;

(2) the applicant has not willfully violated any of the provisions of this chapter or regulations issued hereunder;

(3) the applicant has in a State premises from which he conducts or intends to conduct business;

(4) the applicant has a place of storage for explosive materials which meets such standards of public safety and security against theft as the Secretary by regulations shall prescribe; and

(5) the applicant has demonstrated and certified in writing that he is familiar with all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business.

(c) The Secretary shall approve or deny an application within a period of [forty-five] ninety days beginning on the date such application is received by the Secretary.

[(d) The Secretary may revoke any license or permit issued under this section if in the opinion of the Secretary the holder thereof has violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter, or has become ineligible to acquire explosive materials under section 842(d). The Secretary's action under

this subsection may be reviewed only as provided in subsection (c) (2) of this section.

[(e) (1) Any person whose application is denied or whose license or permit is revoked shall receive a written notice from the Secretary stating the specific grounds upon which such denial or revocation is based. Any notice of a revocation of a license or permit shall be given to the holder of such license or permit prior to or concurrently with the effective date of the revocation.

[(2) If the Secretary denies an application for, or revokes a license, or permit, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation, the Secretary may upon a request of the holder stay the effective date of the revocation. A hearing under this section shall be at a location convenient to the aggrieved party. The Secretary shall give written notice of his decision to the aggrieved party within a reasonable time after the hearing. The aggrieved party may, within sixty days after receipt of the Secretary's written decision, file a petition with the United States court of appeals for the district in which he resides or has his principal place of business for a judicial review of such denial or revocation, pursuant to sections 701-706 of title 5, United States Code.]

(d) (1) The Secretary may revoke a license or permit issued under this chapter if the person holding the license or permit is ineligible to acquire explosive materials under section 842(d).

(2) A person who has a license or permit issued under this section and who violates a provision of this section or a rule or regulation prescribed by the Secretary under this chapter, shall be subject to a civil penalty, to be imposed by the Secretary, of up to \$10,000 for each violation, or to suspension or revocation of his license or permit, or to both the civil penalty and revocation or suspension. The Secretary may at any time compromise, mitigate or remit such penalties. An action of the Secretary under this subsection is subject to review only as provided in subsection (e) of this section.

(e) (1) Any person whose application is denied or whose license or permit is suspended or revoked or who is assessed a civil penalty shall receive a written notice from the Secretary

stating the specific grounds upon which such denial, suspension, revocation, or civil penalty is based. Any notice of a suspension or revocation of a license or permit shall be given to the holder of such license or permit prior to or concurrent with the effective date of the suspension or revocation.

(2) If the Secretary denies any application for, or suspends or revokes, a license or permit, or assesses a civil penalty, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial, suspension, revocation, or assessment. In the case of a suspension or revocation, the Secretary may upon a request of the holder stay the effective date of the suspension or revocation. A hearing under this section shall be at a location convenient to the aggrieved party. The Secretary shall give written notice of his decision to the aggrieved party within a reasonable time after the hearing. The aggrieved party may, within sixty days after receipt of the Secretary's written decision, file a petition with the United States court of appeals for the district in which he resides or has his principal place of business for a judicial review of such denial, suspension, revocation, or assessment pursuant to sections 701 through 706 of title 5, United States Code.

(f) Licensees and permittees shall make available for inspection at all reasonable times their records kept pursuant to this chapter or the regulations issued hereunder, and shall



submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary may enter during business hours the premises (including places of storage) of any licensee or permittee, for the purpose of inspecting or examining (1) any records or documents required to be kept by such licensee or permittee, under the provisions of this chapter or regulations issued hereunder, and (2) any explosive materials kept or stored by such licensee or permittee at such premises. Upon the request of any State or any political subdivision thereof, the Secretary may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received explosive materials, together with a description of such explosive materials.

(g) Licenses and permits issued under the provisions of subsection (b) of this section shall be kept posted and kept available for inspection on the premises covered by the license and permit.

\* \* \* \* \*

#### CHAPTER 44. -- FIREARMS

Sec.

921. Definitions.

- 922. Unlawful acts.
- 923. Licensing.
- 924. Penalties.
- 925. Exceptions: Relief from disabilities.
- 926. Rules and regulations.
- 927. Effect on State law.
- 928. Separability clause.
- §921. Definitions.

(a) As used in this chapter --

(1) The term "person" and the term "whoever" include any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(2) The term "interstate or foreign commerce" includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

(3) The term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action

of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

(4) The term "destructive device" means --

(A) any explosive, incendiary, or poison gas --

(i) bomb,

(ii) grenade,

(iii) rocket having a propellant charge of more than four ounces,

(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

(v) mine, or

(vi) device similar to any of the devices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into

any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting purposes.

(5) The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) The term "short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon

as modified has an overall length of less than twenty-six inches.

(7) The term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(8) The term "short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

(9) The term "importer" means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this chapter.

(10) The term "manufacturer" means any person engaged in the manufacture of firearms or ammunition for purposes of sale or distribution; and the term "licensed manufacturer" means any such person licensed under the provisions of this chapter.

[(11) The term "dealer" means (A) any person engaged



in the business of selling firearms or ammunition at whole-sale or retail, (B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker. The term "licensed dealer" means any dealer who is licensed under the provisions of this chapter.]

(11) The term "dealer" means any person who is (A) engaged in business as an ammunition retailer, (B) engaged in business as a gunsmith, (C) engaged in business as a firearms dealer, or (D) a pawnbroker. The term "licensed dealer" means any dealer who is licensed under the provisions of this chapter.

(12) The term "ammunition retailer" means any person who is not otherwise a dealer who is engaged in the business of selling ammunition at retail, other than ammunition for destructive devices.

(13) The term "gunsmith" means any person who is not otherwise a dealer who is engaged in the business of repairing firearms or making or fitting special barrels, stocks, or trigger mechanisms to firearms.

(14) The term "firearms dealer" means any person who is engaged in the business of selling firearms or ammunition at wholesale or retail.

(15) The term "handgun" means a firearm which has

a short stock and which is designed to be held and fired by the use of a single hand. The term also includes any combination of parts from which a handgun can be assembled.

(16) The term "handgun model" means a particular design and specification of a handgun.

(17) The term "pistol" means a handgun having a chamber or chambers as an integral part or parts of, or permanently aligned with, the bore or bores.

(18) The term "revolver" means a handgun having a breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates the cylinder to bring the next cartridge in line with the barrel for firing.

[(12)] (19) The term "pawnbroker" means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm or ammunition as security for the payment or repayment of money.

[(13)] (20) The term "collector" means any person who acquires, holds, or disposes of firearms or ammunition as curios or relics, as the Secretary shall by regulation define, and the term "licensed collector" means any such person licensed under the provisions of this chapter.

[(14)] (21) The term "indictment" includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year

may be prosecuted.

[(15)] (22) The term "fugitive from justice" means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

[(16)] (23) The term "antique firearm" means --

(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

(B) any replica of any firearm described in subparagraph (A) if such replica --

(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

[(17)] (24) The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

[(18)] (25) The term "Secretary" or "Secretary of the Treasury" means the Secretary of the Treasury or his

delegate.

[(19)] (26) The term "published ordinance" means a published law of any political subdivision of a State which the Secretary determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Secretary, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.

[(20)] (27) The term "crime punishable by imprisonment for a term exceeding one year" shall not include (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Secretary may by regulation designate, or (B) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.

#### §922. Unlawful acts.

(a) It shall be unlawful --

(1) for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in

the business of importing, manufacturing, or dealing in firearms or ammunition, or in the course of such business to ship, transport, or receive any firearm or ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm or ammunition to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that --

-- (A) this paragraph and subsection (b) (3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm, except a handgun of a model which has not been approved by the Secretary under section 923(k), of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm, other than a handgun of a model which has not been approved by the Secretary under section 923(k), owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, or licensed dealer for the sole purpose of repair or customizing;

(B) this paragraph shall not be held to preclude



a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the

firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a rifle or shotgun obtained in conformity with the provisions of subsection (b) (3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe [resides in any State other than that in which the transferor resides (or other than that] does not reside in the State in which the transferor

resides (or does not reside in the State in which its place of business is located if the transferor is a corporation or other business entity); except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm, other than a handgun of a model which has not been approved by the Secretary under section 923(k) of this chapter, to any person for temporary use for lawful sporting purposes; and

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter.

(b) It shall be unlawful for any licensed importer,

licensed manufacturer, licensed dealer, or licensed collector to sell or deliver --

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;

(2) any firearm or ammunition to any person in any State where the purchase or possession by such person of such firearm or ammunition would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of a rifle or shotgun to a resident of a State contiguous to the State in which the licensee's place of

business is located if the purchaser's State of residence permits such sale or delivery by law, the sale fully complies with the legal conditions of sale in both such contiguous States, and the purchaser and the licensee have, prior to the sale, or delivery for sale, of the rifle or shotgun, complied with all of the requirements of section 922(c) applicable to intrastate transactions other than at the licensee's business premises, (B) shall not apply to the loan or rental of a firearm, other than a handgun of a model which has not been approved by the Secretary under section 923(k), to any person for temporary use for lawful sporting purposes, and (C) shall not preclude any person who is participating in any organized rifle or shotgun match or contest, or is engaged in hunting, in a State other than his State of residence and whose rifle or shotgun has been lost or stolen or has become inoperative in such other State, from purchasing a rifle or shotgun in such other State from a licensed dealer if such person presents to such dealer a sworn statement (i) that his rifle or shotgun was lost or stolen or became inoperative while participating in such a match or contest, or while engaged in hunting, in such other State, and (ii) identifying the chief law enforcement officer of the locality in which such person resides, to whom such licensed dealer shall forward such statement by registered mail;



(4) to any person any destructive device, machine-gun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity; and

(5) any firearm or ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors.

Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Secretary.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm, other than a handgun, to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if --

(1) the transferee submits to the transferor a sworn statement in the following form:

"Subject to penalties provided by law, I swear that [, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle,] I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are \_\_\_\_\_

\_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_"

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Secretary, to the chief law

enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

[(d) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person --

[(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

[(2) is a fugitive from justice;

[(3) is an unlawful user of or addicted to marihuana

or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

[(4) has been adjudicated as a mental defective or has been committed to any mental institution.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.]

(d) (1) It shall be unlawful for any licensed manufacturer, licensed importer, licensed dealer, or licensed collector to manufacture, assemble, sell, or transfer any handgun, other than a curio or relic, in the United States unless the handgun model has been approved by the Secretary pursuant to section 923(k) of this chapter.

(2) It shall be unlawful for any person other than a licensed manufacturer, licensed importer, licensed dealer, or licensed collector to sell or transfer any handgun, other than a curio or relic, in the United States knowing that the handgun is a model which has not been approved by the Secretary pursuant to section 923(k) of this chapter.

(e) It shall be unlawful for any person to modify a handgun if the handgun model was previously approved by the Secretary for manufacture, assembly, importation, sale, or transfer if as a result of the modification the handgun no longer meets the standards of a handgun model approved under section 923(k) of this chapter.

(f) It shall be unlawful for any person who purchases or receives a handgun with the purpose of selling or transferring the handgun to another person to sell or transfer the handgun to another person unless he knows or has reasonable cause to believe that purchase and possession of the handgun would be in accordance with federal law and with State law and any published ordinance applicable at the place of sale, delivery, or other disposition. This subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors.

(g) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a handgun to a person only if the person appears in person at the licensee's business premises (other than a licensed importer, manufacturer, or dealer) and, in order to assure that purchase and possession of the handgun by the transferee would be in accordance with federal law and with State law and any published ordinance applicable at the place of sale, delivery, or other disposition, only if:



(1) the transferee submits to the transferor a sworn statement prescribed in regulations to be promulgated by the Secretary setting forth:

(A) his name, his residence, and the place where the handgun will be kept; and

(B) that his receipt of the handgun will not be in violation of federal law, or of a State law or any published ordinance of the place of his residence or, if the handgun will be kept at a place other than his place of residence, of the place where the handgun will be kept, and that he does not intend to resell or transfer the handgun to a person who is barred from owning or possessing it by federal or State law or any published ordinance of the place of the latter person's residence or other place where the handgun would be kept.

The sworn statement shall also include the true title, name, and address of the chief law enforcement officer of the place of the transferee's residence and the place where the handgun will be kept. If a State law or published ordinance applicable at the place of the transferee's residence or the place where the handgun will be kept requires that a person must have a permit or license to own, possess, or purchase the handgun, a true copy of such permit or license shall be attached to the sworn statement. Any other infor-

mation required to be supplied to own, possess, or acquire a handgun under such State law or published ordinance shall also be attached to the sworn statement;

(2) the transferee provides identification sufficient to establish, under rules and regulations of the Secretary, reasonable grounds to believe that the transferee is the person he claims to be, and that his residence is at the address stated in the transferee's sworn statement;

(3) the transferor has, prior to delivery of the handgun, forwarded immediately by registered or certified mail (return receipt requested), to the chief law enforcement officer of the transferee's place of residence and to the chief law enforcement officer of any other place where the transferee indicates in his sworn statement that he will keep the handgun, a copy of the sworn statement, in a form prescribed by the Secretary, for purposes of notifying such officer of the proposed transfer and of permitting such officer:

(A) to check the record and identity of the transferee, to determine whether ownership or possession of the handgun by the transferee would be a violation of a State law or any published ordinance of the place of the transferee's residence or the place where the handgun will be kept;

(B) to request a name check by the Federal Bureau of Investigation which shall be sent to the

chief law enforcement officer within five working days of the Bureau's receipt of the request; and

(C) to report to the transferor the results of such check, determination, and request;

(4) the transferor has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Postal Service regulations;

(5) the transferor has received reports from the chief law enforcement officer of the transferee's place of residence and of the other place where the transferee has indicated that the handgun will be kept, and the reports do not indicate that the transferee is prohibited from shipping, possessing, transporting, or receiving a handgun under subsection (h) or (i) of this section, that the transferee is less than twenty-one years of age, or that the purchase or possession of a handgun by the transferee would be a violation of a State law or any published ordinance applicable at the place of residence or place where the handgun will be kept; and

(6) if the transferor has not received the reports from the law enforcement officers, the transferor has delayed delivery of the handgun for a period of at least fourteen days from the date the sworn statement required under paragraph (1) of this subsection was forwarded as

prescribed in paragraph (3) of this subsection.

A copy of the sworn statement and a copy of the notification or notifications to the chief law enforcement officer or officers, together with the reports received from such officer or officers under paragraph (3) of this subsection shall be retained by the licensee as a part of the records required to be kept under section 923(g).

[(g)] (h) It shall be unlawful for any person --

(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to marijuana or any depressant or stimulant [drug (as defined in section 201(v)) substance [of the Federal Food, Drug, and Cosmetic Act)] or narcotic drug [(as defined in section 4731(a) of the Internal Revenue Code of 1954); or] as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

[(4) who has been adjudicated as a mental defective or who has been committed to a mental institution; to ship or transport any firearm or ammunition in interstate or foreign commerce.]

(4) who has been adjudicated as mentally incompetent or has been committed to a mental institution; or

(5) who, being an alien, is illegally or unlawfully in the United States;  
to possess, ship, transport, or receive any firearm or ammunition.

[(h) It shall be unlawful for any person --

[(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

[(2) who is a fugitive from justice;

[(3) who is an unlawful user of or addicted to marijuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

[(4) who has been adjudicated as a mental defective or who has been committed to any mental institution; to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.]

(i) It shall be unlawful for any person who, while being employed by a person who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition under subsection (h), and who, knowing or having reason to believe his employer falls within one of the classifications enumerated in subsection (h), in the course of such employment to possess any firearm or ammunition.



(j) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person unless he knows or has reasonable cause to believe that such person is not prohibited from possessing, shipping, transporting, or receiving a firearm or ammunition under subsection (h) or (i) of this section. This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition.

(k) It shall be unlawful for any person to ship or transport any firearm or ammunition in interstate or foreign commerce if such shipment or transportation is in violation of a State law in a place to which or through which the firearm was shipped or transported or of a published ordinance applicable at the place of sale, delivery, or other disposition.

(l) (1) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or transfer two or more handguns to the same person, other than another licensed importer, licensed manufacturer, licensed dealer, or licensed collector, in a period of thirty days or less, unless the transferee has obtained prior approval of the purchase from the Secretary, pursuant to regulations promulgated by the Secretary.

(2) It shall be unlawful for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to purchase or receive two or more handguns in a period of thirty days or less from one or more licensed importers, licensed manufacturers, licensed dealers, or licensed collectors or from such a licensee and from a person or persons who are not such licensees, unless the person has obtained prior approval of the purchase from the Secretary pursuant to regulations promulgated by the Secretary. It shall be unlawful for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to purchase or receive two or more handguns in a period of thirty days or less from a person or persons other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector unless the person notifies the Secretary of such purchase or receipt within thirty days after the purchase or receipt.

[(e)] (m) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except

that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter.

[(f)] (n) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

[(i)] (o) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

[(j)] (p) It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, or which constitutes, interstate or foreign commerce, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

[(k)] (q) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce,

any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered.

[(1)] (r) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

[(m)] (s) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

#### §923. Licensing.

(a) No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from, the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulation prescribe. Each applicant shall pay a fee for obtaining such a license, a separate fee being required for each place in which the applicant is to do business, as follows:

(1) If the applicant is a manufacturer --

(A) of destructive devices or ammunition for destructive devices, a fee of \$1,000 per year;

[(B) of firearms other than destructive devices, a fee of \$50 per year; or

[(C) of ammunition for firearms other than destructive devices, a fee of \$10 per year.]

(B) of firearms other than destructive devices or handguns, a fee of \$250 per year;

(C) of firearms, including handguns, but not including destructive devices, a fee of \$500 per year; or

(D) of ammunition for firearms other than ammunition for destructive devices, a fee of \$250 per year.

(2) If the applicant is an importer --

(A) of destructive devices or ammunition for destructive devices, a fee of \$1,000 per year; [or

[(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, a fee of \$50 per year.]

(B) of firearms other than destructive devices or handguns or of ammunition for firearms other than destructive devices, a fee of \$250 per year; or

(C) of firearms, including handguns, but not



including destructive devices, a fee of \$500 per year.

(3) If the applicant is a dealer --

(A) in destructive devices or ammunition for destructive devices, a fee of \$1,000 per year;

[(B) who is a pawnbroker dealing in firearms other than destructive devices or ammunition for firearms other than destructive devices, a fee of \$25 per year; or

[(C) who is not a dealer in destructive devices or a pawnbroker, a fee of \$10 per year.]

(B) who is a pawnbroker dealing in firearms other than destructive devices or handguns, or ammunition for firearms other than destructive devices, a fee of \$250 per year;

(C) who is a pawnbroker dealing in firearms, including handguns, but not including destructive devices, a fee of \$500;

(D) who is not a dealer in destructive devices or handguns, a pawnbroker, a gunsmith, or an ammunition retailer in other than ammunition for destructive devices, a fee of \$100 per year;

(E) in firearms, including handguns, but not including destructive devices, \$200 per year;

(F) who is a gunsmith, a fee of \$50 per year; or

(G) who is an ammunition retailer in other than ammunition for destructive devices, a fee of \$25 per year.

(b) Any person desiring to be licensed as a collector shall file an application for such license with the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulation prescribe. The fee for such license shall be \$10 per year. Any license granted under this subsection shall only apply to transactions in curios and relics.

(c) Upon the filing of a proper application and payment of the prescribed fee, the Secretary shall issue to a qualified applicant the appropriate license which, subject to the provisions of this chapter and other applicable provisions of law, shall entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license.

(d) (1) [Any application submitted under subsection (a) or (b) of this section shall be approved if --]

Any application submitted under subsection (a) or (b) of this section shall be approved if the Secretary finds that --

(A) the applicant is twenty-one years of age or over;

[(B) the applicant (including, in the case of a

corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 922(g) and (h) of this chapter;]

(B) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association:

(i) is not prohibited from possessing, transporting, shipping, or receiving firearms or ammunition under section 922(h) or (i) of this chapter;

(ii) is not prohibited by the law of the State or by relevant ordinance of his place of business from conducting the business of transporting, shipping, receiving, selling, transferring, owning, or possessing the firearms or ammunition to which the license would apply; and

(iii) is, by reason of his business experience, financial standing, or trade connections, likely to commence the business for which the license is applied within a reasonable period of time and to maintain such business in conformity with federal law and with State and relevant local law applicable at his place of business

(C) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

(D) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application; and

(E) the applicant has in a State (i) premises from which he conducts business subject to license under this chapter or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under this chapter or from which he intends to conduct such collecting within a reasonable period of time.

(2) The Secretary must approve or deny an application for a license within the [forty-five] ninety-day period beginning on the date it is received. If the Secretary fails to act within such period, the applicant may file an action under section 1361 of title 28 to compel the Secretary to act. If the Secretary approves an applicant's application, such applicant shall be issued a license upon the payment of the prescribed fee.

[(e) The Secretary may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter. The Secretary's action under this subsection may be reviewed only as provided in subsection (f) of this section.]

(e) The Secretary may, after notice and opportunity for hearing, suspend or revoke any license issued under this section, or may subject the licensee to a civil penalty of up to \$10,000 per violation, if the holder of such license has violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter. The Secretary may at any time compromise, mitigate, or remit the liability with respect to such violation. The Secretary's action under this subsection may be reviewed only as provided in subsection (f) of this section.

[(f) (1) Any person whose application for a license is denied and any holder of a license which is revoked shall receive a written notice from the Secretary stating specifically the grounds upon which the application was denied or upon which the license was revoked. Any notice of a revocation of a license shall be given to the holder of such license before the effective date of the revocation.

[(2) If the Secretary denies an application for, or



revokes, a license, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation of a license, the Secretary shall upon the request of the holder of the license stay the effective date of the revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

[ (3) If after a hearing held under paragraph (2) the Secretary decides not to reverse his decision to deny an application or revoke a license, the Secretary shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a judicial review of such denial or revocation. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding. If the court decides that the Secretary was not authorized to deny the application or to revoke the license, the court shall order the Secretary to take such action as may be necessary to comply with the judgment of the court.]

(f) (1) Any person whose application for a license is denied and any holder of a license which is suspended or revoked or who is assessed a civil penalty shall receive a written

notice from the Secretary stating specifically the grounds upon which the application was denied or upon which the license was suspended or revoked or the civil penalty assessed. Any notice of a suspension or revocation of a license shall be given to the holder of such license before the effective date of the suspension or revocation.

(2) If the Secretary denies an application for, or suspends or revokes a license, or assesses a civil penalty, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial, suspension, revocation, or assessment. In the case of a suspension or revocation of a license, the Secretary shall upon the request of the holder of the license stay the effective date of the suspension or revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

(3) If after a hearing held under paragraph (2) the Secretary decides not to reverse his decision to deny an application or suspend or revoke a license or assess a civil penalty, the Secretary shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within 60 days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a judicial review of such denial, suspension, revocation, or assessment. In a proceeding conducted under this subsection, the

court may consider any evidence submitted by the parties to the proceeding. If the court decides that the Secretary was not authorized to deny the application or to suspend or revoke the license or to assess the civil penalty, the court shall order the Secretary to take such action as may be necessary to comply with the judgment of the court.

(g) Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms and ammunition at such place, for such period, and in such form as the Secretary may by regulations prescribe. Such importers, manufacturers, dealers, and collectors shall make such records available for inspection at all reasonable times, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary may enter during business hours the premises (including places of storage) of any firearms or ammunition importer, manufacturer, dealer, or collector for the purpose of inspecting or examining (1) any records or documents required to be kept by such importer, manufacturer, dealer, or collector under the provisions of this chapter or regulations issued under this chapter; and (2) any firearms or ammunition kept or stored by such importer, manufacturer, dealer, or collector at such premises. Upon the request of any State or any political subdivision thereof, the Secretary may make

available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition.

(h) Licenses issued under the provisions of subsection (c) of this section shall be kept posted and kept available for inspection on the premises covered by the license.

(i) Licensed importers and licensed manufacturers shall identify, by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Secretary shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer.

(j) This section shall not apply to anyone who engages only in hand loading, reloading, or custom loading ammunition for his own firearm, and who does not hand load, reload, or custom load ammunition for others.

(k) The Secretary shall approve for manufacture, assembly, importation, sale, or transfer any handgun model if he has caused to be evaluated and tested representative samples of the handgun model and has found that such handgun model is particularly suitable for sporting or valid defensive purposes and that:

(1) in the case of a pistol, the handgun model:

(A) has a positive manually operated safety

device; and

(B) has a combined length and height of not less than ten inches with the height (measured from the top of the weapon, excluding sights, at a right-angle measurement to the line of the bore, to the bottom of the frame, excluding magazine extensions or releases) being at least 4 inches and the length (measured from the muzzle, parallel to the line of the bore, to the back of the part of the weapon that is furthest to the rear of the weapon) being at least 6 inches; and

(C) attains a total of at least 85 points under the following criteria:

(i) Overall length: one point for each one-fourth inch over 6 inches;

(ii) Frame Construction: (a) 25 points if investment cast steel or forged steel, (b) 30 points if investment cast, high tensile strength alloy or forged high tensile strength alloy;

(iii) Weight: one point for each ounce, with the pistol unloaded and the magazine in place;

(iv) Caliber: (a) zero points if the pistol accepts only .22 caliber short or .25 ACP caliber ammunition, (b) three points if



the pistol accepts either .22 caliber long rifle ammunition or any ammunition within the range delimited by 7.65 millimeter and .380 caliber automatic, (c) 10 points if the pistol accepts 9 millimeter parabellum ammunition or ammunition of an equivalent or greater projectile size or power;

(v) Safety features: (a) five points if the pistol has a locked breech mechanism, (b) five points if the pistol has a loaded chamber indicator, (c) five points if the pistol has a cocked position indicator, (d) five points if the pistol has a grip safety, (e) five points if the pistol has a magazine safety, (f) 10 points if the pistol has a firing pin block or lock;

(vi) Other features: (a) one point if the pistol has a contoured magazine extension, (b) three points if the pistol has a slide hold-open device; and

(viii) Miscellaneous equipment: (a) three points if the pistol has an external hammer, (b) 10 points if the pistol has a double action firing mechanism, (c) five points if the pistol has a drift adjustable sight, (d) 10 points

if the pistol has a screw adjustable windage and elevation sight, (e) five points if the pistol has target grips, (f) three points if the pistol has a target trigger;

(2) in the case of a revolver, the handgun model:

(A) has an overall frame (with conventional grips) length of four and one-half inches (measured from the end of the frame nearest the muzzle, parallel to the line of the bore to the back of the part of the weapon that is furthest to the rear of the weapon);

(B) has a barrel length (measured from the muzzle to the cylinder face) of at least four inches;  
and

(C) has a safety device which, either (i) by automatic operation in the case of a double action firing mechanism or (ii) by manual operation in the case of a single action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge, and which, once activated, except for a used handgun, is capable of withstanding the impact of a weight, equal to the weight of the revolver, dropped a total of five times from a height of 36 inches above the rear of the hammer spur onto the rear of the hammer

spur with the revolver in a position such that the line of the barrel is perpendicular to the place of the horizon; and

(D) attains a total of at least 60 points under the following criteria;

(i) Barrel length (measured from the muzzle to the cylinder face): one-half point for each one-half inch that the barrel is longer than four inches;

(ii) Frame construction: (a) 25 points if investment cast steel or forged steel, (b) 30 points if investment cast, high tensile strength alloy or forged high tensile strength alloy;

(iii) Weight: one point for each ounce with the revolver unloaded;

(iv) Caliber: (a) zero points if the revolver accepts ammunition within the range delimited by 4 millimeter and .25 caliber ACP other than .22 caliber long rifle ammunition, (b) three points if the revolver accepts .22 caliber long rifle ammunition or ammunition within the range delimited by .30 caliber and .38 caliber S&W, (c) four points if the revolver accepts .38 caliber special ammunition,

(d) five points if the revolver accepts .357 magnum ammunition or ammunition of an equivalent or greater projectile size or power;

(v) Safety features: three points if the revolver has a grip safety;

(vi) Other features: (a) two points if the revolver has a front supported or shrouded ejector rod, (b) five points if the revolver has a rifled portion of the barrel threaded to or integral to the frame or strap component,

(c) two points if the revolver has a retracting firing pin, (d) two points if the revolver has a steel recoil plate, (e) five points if the double action revolver has a crane mounted cylinder or rear latch top break, (f) five points if the single action revolver has a spring-loaded ejector assembly and a loading gate; and

(viii) Miscellaneous equipment: (a) two points if the revolver has a drift adjustable sight, (b) five points if the revolver has a screw adjustable windage or elevation sight, (c) seven points if the revolver has a screw adjustable windage and elevation sight, (d) four points if the revolver has target grips, (e) two points if the revolver has a target

trigger, (f) two points if the revolver has a target hammer.

(1) (1) The Secretary shall give written notification of the results of evaluation and testing conducted pursuant to subsection (k) of this section to the licensed manufacturer, licensed importer, licensed dealer, or licensed collector submitting samples of a handgun model for such evaluation and testing. If any handgun fails to meet the standards for approval, the Secretary's notification shall state specifically the reasons for such finding.

-(2) Any licensed manufacturer, licensed importer, licensed dealer, or licensed collector submitting to the Secretary for testing a handgun model which is subsequently found not in compliance with relevant standards shall have ten days from receipt of notification of non-compliance within which to submit in writing specific objections to such findings and a request for retesting such model, together with justification therefor. Upon receipt of such a request the Secretary shall promptly arrange for retesting and thereafter notify the aggrieved party of the results, if he determines sufficient justification for retesting exists. Should he determine that retesting is not warranted, the Secretary shall promptly notify the aggrieved party as to such determination. In the event that upon retesting the Secretary's finding



remains adverse, or that the Secretary finds retesting is not warranted, the aggrieved party may within sixty days after the date of the Secretary's notice of such finding file a petition in the United States district court in the district in which the aggrieved party resides or has his principal place of business in order to obtain judicial review of such finding. Such review shall be in accordance with the provisions of section 706 of title 5, United States Code.

(3) The Secretary shall publish in the Federal Register at least semiannually a list of handgun models which have been tested and the results of those tests.

Handgun models:

(A) not in manufacture on or after the effective date of this subsection; and

(B) which have not been tested or for which the test results have not been published;

shall be deemed to be approved under section 923(k) of this chapter until such time as notice of their disapproval has been published in the Federal Register. The list shall also be included with the published ordinances required under section 921(a)(26) to be furnished to each licensee under this chapter.

## §924. Penalties.

(a) Whoever violates any provision of this chapter, other than subsection (j) of section 922, or knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or in applying for any license or exemption or relief from disability under the provisions of this chapter, shall be fined not more than \$5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine. Whoever violates section 922(j) of this chapter shall be fined not more than \$1,000, or imprisoned not more than one year, or both.

(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.

[(c) Whoever --

[(1) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States, or

[(2) carries a firearm unlawfully during the commis-

sion of any felony for which he may be prosecuted in a court of the United States.

shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than one year nor more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than two nor more than twenty-five years and, notwithstanding any other provision of law, the court shall not suspend the sentence in the case of a second or subsequent conviction of such person or give him a probationary sentence, nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony.]

(c) Whoever --

(1) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States, or

(2) carries a firearm during the commission of any felony for which he may be prosecuted in a court of the United States,

shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment of not less than one year nor more than ten years in the case of the first offense, and to a term of imprisonment of not less than two nor more than twenty-five years for a second or subsequent

offense. Notwithstanding any other provision of law, the court shall not suspend the sentence of such person or give him a probationary sentence, nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony.

(d) Any firearm or ammunition involved in or used or intended to be used in, any violation of the provisions of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

§925. Exceptions: Relief from disabilities.

(a) (1) The provisions of this chapter shall not apply with respect to the transportation, shipment, receipt, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

(2) The provisions of this chapter shall not apply with respect to (A) the shipment or receipt of firearms, other than a handgun of a model which has not been approved by the

Secretary of the Treasury pursuant to section 923(k) of this chapter, or ammunition when sold or issued by the Secretary of the Army pursuant to section 4308 of title 10, and (B) the transportation of any such firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions.

(3) Unless otherwise prohibited by this chapter or any other Federal law, a licensed importer, licensed manufacturer, or licensed dealer may ship to a member of the United States Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members, and such members or clubs may receive a firearm, other than a handgun of a model which has not been approved by the Secretary of the Treasury pursuant to section 923(k) of this chapter, or ammunition determined by the Secretary of the Treasury to be generally recognized as particularly suitable for sporting purposes and intended for the personal use of such member or club.

(4) When established to the satisfaction of the Secretary to be consistent with the provisions of this chapter and other applicable Federal and State laws and published ordinances, the Secretary may authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States



Armed Forces who is on active duty outside the United States within the sixty-day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm, other than a handgun of a model which has not been approved by the Secretary of the Treasury pursuant to section 923(k) of this chapter, or ammunition which is (A) determined by the Secretary to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and (B) intended for the personal use of such member.

(5) For the purpose of paragraphs (3) and (4) of this subsection, the term "United States" means each of the several States and the District of Columbia.

(b) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector who is indicted for a crime punishable by imprisonment for a term exceeding one year, may, notwithstanding any other provision of this chapter, continue operation pursuant to his existing license (if prior to the expiration of the term of the existing license timely application is made for a new license) during the term of such indictment and until any conviction pursuant to the indictment becomes final.

[(c)] (c) (1) A person who has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon

or a violation of this chapter or of the National Firearms Act or of a State or local law which relates to the importation, manufacture, sale or transfer, of a firearm) may make application to the Secretary for relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of such conviction, and the Secretary may grant such relief if it is established to his satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. A licensed importer, licensed manufacturer, licensed dealer, or licensed collector conducting operations under this chapter, who makes application for relief from the disabilities incurred under this chapter by reason of such a conviction, shall not be barred by such conviction from further operations under his license pending final action on an application for relief filed pursuant to this section. Whenever the Secretary grants relief to any person pursuant to this section he shall promptly publish in the Federal Register notice of such action, together with the reasons therefor.

(2) Any person who, having been adjudicated as mentally incompetent, or who, having been committed to a mental

institution, subsequently has been adjudicated by a court or other lawful authority to have been restored to mental competency, if such court or other lawful authority specifically finds that the person is no longer suffering from a mental disorder and that the possession of a firearm by the person would not pose a danger to the person or to the person of another, shall be relieved from the disabilities imposed by this chapter with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred because of such adjudication or commitment.

(d) The Secretary may authorize a firearm or ammunition to be imported or brought into the United States or any possession thereof if the person importing or bringing in the firearm or ammunition establishes to the satisfaction of the Secretary that the firearm or ammunition --

(1) is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 401 of title 10;

(2) is an unserviceable firearm, other than a machinegun as defined in section 5845(b) of the Internal Revenue Code of 1954 (not readily restorable to firing condition), imported or brought in as a curio or museum piece;

[(3) is of a type that does not fall within the

definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms; or]

(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954; is not a surplus military firearm; is generally recognized as particularly suitable for sporting purposes; and, if a handgun, the model has been approved by the Secretary pursuant to section 923(k) of this chapter; or

(4) was previously taken out of the United States or a possession by the person who is bringing in the firearm or ammunition.

The Secretary may permit the conditional importation or bringing in of a firearm or ammunition for examination and testing in connection with the making of a determination as to whether the importation or bringing in of such firearm or ammunition will be allowed under this subsection.

#### §926. Rules and regulations.

(a) The Secretary may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter, including --

(1) regulations providing that a person licensed under this chapter, when dealing with another person so licensed, shall provide such other licensed person a certified copy of this license; [and]

(2) regulations providing for the issuance, at a reasonable cost, to a person licensed under this chapter, of certified copies of his license for use as provided under regulations issued under paragraph (1) of this subsection [.]; and

(3) regulations precluding multiple sales or transfers of handguns under section 922(2) to persons who do not demonstrate to the satisfaction of the Secretary in a transaction involving a licensed manufacturer, licensed importer, licensed dealer, or licensed collector, that such purchase or transfer is for lawful purposes, as defined in the regulations, and regulations concerning the notice required under section 922(1)(2).

The Secretary shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing such rules and regulations.

(b) Any officer or employee of the Bureau of Alcohol, Tobacco, and Firearms who is designated by the Secretary to carry out the provisions of this chapter is authorized to administer such oaths or affirmations as may be necessary for the enforcement of this chapter and any other provision of law.



or regulation administered by the Bureau.

§927. Effect on State law.

No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.

§928. Separability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

\* \* \* \* \*

Chapter 83. -- POSTAL SERVICE

\* \* \* \* \*

§1715. Firearms as nonmailable; regulations.

Pistols, revolvers, and other firearms capable of being concealed on the person are nonmailable and shall not be deposited in or carried by the mails or delivered by any officer or employee of the Postal Service. Such articles,

other than handguns whose transfer is restricted under section 922(d), may be conveyed in the mails, under such regulations as the Postal Service shall prescribe, for use in connection with their official duty, to officers of the Army, Navy, Air Force, Coast Guard, Marine Corps, or Organized Reserve Corps; to officers of the National Guard or Militia of a State, Territory, or District; to officers of the United States or of a State, Territory, or District whose official duty is to serve warrants of arrest or commitments; to employees of the Postal Service; to officers and employees of enforcement agencies of the United States; and to watchmen engaged in guarding the property of the United States, a State, Territory, or District.

The Postal Service shall promulgate regulations, subject to approval of the Secretary of the Treasury, consistent with section 922(d) of this title, concerning conveyance in the mails of handguns subject to that section for the United States or any department or agency thereof, or to any State, department, agency or political subdivision thereof.

Such articles also may be conveyed in the mails to manufacturers of firearms or bona fide dealers therein in customary trade shipments, including such articles for repairs or replacement of parts, from one to the other, under such regulations as the Postal Service shall prescribe.

Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail according to the

direction thereon, or at any place to which it is directed to be delivered by the person to whom it is addressed, any pistol, revolver, or firearm declared nonmailable by this section, shall be fined not more than \$1,000 or imprisoned not more than two years, or both.

\* \* \* \* \*

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT

\* \* \* \* \*

[TITLE VII. UNLAWFUL POSSESSION OR RECEIPT OF FIREARMS

[SEC. 1201. The Congress hereby finds and declares that the receipt, possession, or transportation of a firearm by felons, veterans who are discharged under dishonorable conditions, mental incompetents, aliens who are illegally in the country, and former citizens who have renounced their citizenship, constitutes --

[(1) a burden on commerce or threat affecting the free flow of commerce,

[(2) a threat to the safety of the President of the United States and Vice President of the United States,

[(3) an impediment or a threat to the exercise of free speech and the free exercise of a religion guaranteed by the first amendment to the Constitution of the United States, and

[(4) a threat to the continued and effective operation of the Government of the United States and of the government of each State guaranteed by article IV of the Constitution.

[SEC. 1202. (a) Any person who --

[(1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony, or

[(2) has been discharged from the Armed Forces under dishonorable conditions, or

[(3) has been adjudged by a court of the United States or of a State or any political subdivision thereof of being mentally incompetent, or

[(4) having been a citizen of the United States has renounced his citizenship, or

[(5) being an alien is illegally or unlawfully in the United States,

and who receives, possesses, or transports in commerce or affecting commerce, after the date of enactment of this Act, any firearm shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

[(b) Any individual who to his knowledge and while being employed by any person who --

[(1) has been convicted by a court of the United States or of a State or any political subdivision thereof

of a felony, or

[ (2) has been discharged from the Armed Forces under dishonorable conditions, or

[ (3) has been adjudged by a court of the United States or of a State or any political subdivision thereof of being mentally incompetent, or

[ (4) having been a citizen of the United States has renounced his citizenship, or

[ (5) being an alien is illegally or unlawfully in the United States,

and who, in the course of such employment, receives, possesses, or transports in commerce or affecting commerce, after the date of the enactment of this Act, any firearm shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

[(c) As used in this title --

[(1) "commerce" means travel, trade, traffic, commerce, transportation, or communication among the several States or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country;

[(2) "felony" means any offense punishable by imprisonment for a term exceeding one year, but does not



include any offense (other than one involving a firearm or explosive) classified as a misdemeanor under the laws of a State and punishable by a term of imprisonment of two years or less;

[(3) "firearm" means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer; or any destructive device. Such term shall include any handgun, rifle, or shotgun;

[(4) "destructive device" means any explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device; and includes any type of weapon which will or is designed to or may readily be converted to expel a projectile by the action of any explosive and having any barrel with a bore of one-half inch or more in diameter;

[(5) "handgun" means any pistol or revolver originally designed to be fired by the use of a single hand and which is designed to fire or capable of firing fixed cartridge ammunition, or any other firearm originally designed to be fired by the use of a single hand;

[(6) "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the

energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger;

[(7) "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

[SEC. 1203. This title shall not apply to --

[ (1)~ Any prisoner who by reason of duties connected with law enforcement has expressly been entrusted with a firearm by competent authority of the prison; and

[ (2) any person who has been pardoned by the President of the United States or the chief executive of a State and has expressly been authorized by the President or such chief executive, as the case may be, to receive, possess, or transport in commerce a firearm.]

Senator BAYH. We will recess, pending the call of the Chair.

[Whereupon, at 1:35 p.m. the subcommittee adjourned, subject to the call of the Chair.]

## HANDGUN CRIME CONTROL—1975—1976

### Oversight of 1968 Gun Control Act—The Escalating Rate of Handgun Violence

TUESDAY, OCTOBER 28, 1975

U.S. SENATE,  
SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY,  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee (composed of Senators Bayh, Hart, Burdick, Kennedy, Mathias, Hruska, and Fong) met, pursuant to notice, at 10:15 a.m., in room 1114, Dirksen Senate Office Building, Senator Birch Bayh (chairman of the subcommittee), presiding.

Present: Senators Bayh, Kennedy, and Hruska.

Also present: John M. Rector, staff director and chief counsel; Mary Kaaren Jolly, editorial director and chief clerk; and Kevin O. Faley, assistant counsel.

Senator BAYH. We will convene our hearing this morning.

The subcommittee's enabling resolution, S. Res. 72, section 12, 94th Congress, is hereby noted for the record.

Due to the present schedule that requires you to be elsewhere, I yield our opening to our distinguished colleague from Massachusetts, Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman.

I would like to have my statement follow yours in the record.

I do want to join in extending a word of welcome to Senators Javits and Percy, who along with you, have been tireless soldiers in the area of trying to do something about handgun control. You have been doing something about trying to stem violence in this country due to handguns.

The areas which I focus on in my statement are on the transfer authority, which is an issue that has been raised by the Justice Department in Attorney General Levi's proposal. The transfer authority would require all exchanges of handguns to be recorded so that law enforcement officials can readily trace those handguns used in crime. And I want to say how much I appreciate the Justice Department's being present during these hearings. We have not seen Justice Department participation in gun control hearings since 1968. And I want to publicly, as well as privately, commend the Department, for their interest. We still have a way to go, I think, in terms of our mutual approach, but I do want to thank them for their interest and their presence here.

I intend to introduce new legislation shortly on the mandatory sentences for crimes in which handguns are used. I would be interested in any response, either from the Justice Department or from the Senators on this particular point.

I want to thank you for letting me make this comment, and I ask that my full statement be included at the appropriate place in the record.<sup>1</sup>

Mr. Chairman, I also want to thank you for holding these hearings and for the work that you are doing on them and indicate to you that I am prepared to work with you in every possible way to see if we can get some meaningful legislation and do something about all the violence in the country due to handguns.

Senator BAYH. Thank you, Senator Kennedy.

Without objection, we will put your entire statement in the record, immediately following our opening statement.

#### **OPENING STATEMENT OF SENATOR BIRCH BAYH, CHAIRMAN**

Senator BAYH. This morning we continue our series of hearings designed to explore current and suggested additional initiatives to more effectively curb the senseless slaughter of innocent human beings and the ever-escalating number of armed assaults and robberies involving firearms, but especially handguns.

For more than a decade this subcommittee has conducted extensive investigations on a broad range of proposed firearms legislation. These efforts led to the passage of the Gun Control Act of 1968, which was written and developed by the subcommittee and which is now the subject of our thorough and careful review.

These earlier efforts, from 1963-68, established that the availability of foreign made, easily concealable, often inexpensive handguns, with no legitimate sporting purposes, constituted a serious threat to law enforcement, to the public safety and welfare, and to the integrity of State firearms control laws. That act banned their importation.

It soon became apparent, however, that congressional intent was effectively circumvented by enterprising firms in the United States that flooded the market with the very crime guns whose availability Congress had intended to curtail by the 1968 ban on nonsporting imports. As a consequence the subcommittee's 1968 findings regarding the availability of these crime guns are unfortunately still valid today.

In 1972 the Senate, by a vote of 68-25, passed my bill to apply to all commercial handgun sales the criteria applied only to imported handguns. The House failed to act on this measure.

This approach, now title II of S. 1880, targets crime guns. Such a weapon was used to kill Robert Kennedy, to gun down Governor Wallace and was reportedly fired at President Ford in San Francisco.

#### **CONCEALABILITY OF WEAPON—PRIME REQUISITE**

These lethal weapons, whose only purpose is to kill, are the favorites of murders, armed robbers and gun-wielding assailants who ter-

<sup>1</sup> See p. 784.



rorize our communities. It is this concealability that is uniquely appealing. The former director of the Alcohol, Tobacco and Firearms Bureau—ATF—put it quite succinctly when he told the subcommittee:

What [criminals] want are small, compact, light weight weapons. They want weapons with no handgrip or sights to catch in a pocket. Concealability is the prime requisite.

Let there be no mistake about it; we are talking about tens of thousands of murders and hundreds of thousands of assaults and robberies.

Ten years ago 43 percent of all homicides were by handguns. Today nearly 7 in 10 involves a handgun!

In the same decade more than 650 police officers were murdered by assailants with handguns; last year alone 10,000 of our citizens were murdered with handguns!

My approach does not focus on the millions of law-abiding citizens who own firearms, significantly less than 1 percent of which are used in crime, but only on those small belly guns with no sporting purposes. Some critics claim that this approach is meaningless and only an illusion. The facts are to the contrary. According to Treasury officials, substantially more than 75 percent of the handguns used in crime would be prohibited under this approach!

President Ford's crime bill—S. 2186—contains virtually identical provisions. The Ford bill also addresses the serious problem of crime involving the use of firearms and thus is similar to title III of my bill, providing mandatory penalties for these offenses, which passed the Senate 88-12 in 1973. I invite his support for provisions which expedite these cases on the Federal court docket.

The President has recommended the establishment of a Federal waiting period between the purchase and the receipt of handguns. As I have recently indicated, I am especially interested in this type of proposal which was, in part, the focus of our April hearing. It is aimed at preventing felons, the insane, and other prohibited purchasers, and not sportspeople and otherwise law-abiding persons from purchasing handguns. The expense of such a program on a national basis is a major concern of mine, which I hope we can learn more about today. We have seen estimates of licensing and registration or confiscation schemes, which I do not support, which range from \$1 to \$5 billion.

Likewise, we are interested in a fuller explanation of the President's proposals to eliminate all but 30,000 of the Nation's 160,000 gun dealers and to ban the sale of privately owned handguns.

In addition, today the subcommittee will carefully review a bill introduced by Senator Javits and Senator Percy, S. 2153. This measure was introduced just prior to Attorney General Levi's presentation before the subcommittee at our last hearing. We are particularly anxious to hear from its sponsors about provisions designed to confiscate all handguns in more than 60 major American cities.

As chairman of the subcommittee, it is my aim to develop new initiatives to stem the violence in our country, not by restricting the right of honest sportspeople to possess legitimate sporting weapons, but by seeking to keep weapons which are unsuitable for hunting or sport from criminals who use them to hunt and kill people.

## STATEMENT OF SENATOR KENNEDY

Senator KENNEDY. I am pleased to have the opportunity to participate in this committee's continued efforts to seek effective controls on handguns in this country.

As chairman of this committee, you clearly deserve support for your initiative in pursuing legislative action that can begin to halt the rising tragedies due to handgun violence and will cap the mood of fear and intimidation that pervades our Nation's communities because 40 million handguns are so easily available to so many people.

I am particularly pleased, as a member of this committee, to welcome the distinguished witnesses who will testify this morning.

Senators Jacob Javits and Charles Percy are exceptionally conscientious campaigners for meaningful gun control measures that can have a significant impact for everyone in this Nation. And once again it is encouraging to have an opportunity to witness a presentation by the Department of Justice, regarding gun control.

Ronald Gainer is apparently continuing to carry out the courageous action inaugurated by Attorney General Edward Levi in his testimony before this committee last April. Not since 1968 has anyone from the Department of Justice faced the demand for handgun control as forthrightly as Mr. Levi and the members of his staff. Effective controls will be imposed only with the concerted cooperation of both the administration and the Congress. Today's witnesses have designed well-constructed proposals that address critical facets of the handgun problem. The committee chairman has offered a bill, and I have introduced a handgun bill along with Senator Adlai Stevenson. These measures demonstrate that we know how to contain the threat of violence due to handguns. Moreover, this committee has developed an extensive legislative history over the past decade from expert witnesses who have presented essentially the same recommendation, time and time again. To stem the tide of gun violence, we are told, there must be restrictions on access to handguns.

I am prepared to work for any effective and meaningful legislation that can stop the rise in handgun deaths.

I am hopeful that the efforts of this committee will result in reporting a handgun bill before the end of this year. But I shall also continue to seek every available avenue for adopting a strong handgun bill on the Senate floor and I am hopeful that my colleagues in this Senate will accede to the demands of the American public and begin to deescalate the arms race that has engulfed our cities' streets for too many years.

Five expert panels have convened under Presidential direction since 1968 to develop methods for reducing handgun violence. They have been virtually unanimous in recommending that handgun crimes will be reduced by adopting and effectively enforcing the following procedures: (1) Prohibiting public access to handguns by banning the manufacture, sale and transfer of new handguns; (2) Registering all handguns and licensing qualified handgun owners; (3) Strengthening the provisions of existing Federal handgun laws and enforcing those provisions; and (4) And, by establishing feder-

ally proscribed gun control standards to be enforced universally in every State of the Union.

It is my understanding that today's witnesses will elaborate upon provisions of their proposals that seek to adopt variations of the recommendations made by the various Presidential commissions.

I am sure that today's testimony will contribute significantly to the national campaign for handgun control.

In the bill I introduced last April, the same provisions are included.

In addition, I emphasized in an address last week before the Chicago Crime Commission, the need to impose mandatory sentences for violent crimes. That new legislation will be introduced very soon, because I believe we must move against the proliferation of gun crimes on all possible fronts.

Enactment of this bill will exact mandatory minimum sentences of 2 years without the possibility of parole for the use of a handgun or other dangerous weapon in the course of crime.

The bill also requires mandatory sentences for murder, rape, bombing, aggravated assault, robbery, burglary, and trafficking in heroin.

I believe this is a specific step that must be taken to help combat the viciousness of crime caused by the use of handguns.

I testified before the Committee on Government Operations 3 weeks ago. At that time, I noted there may be an effective way to control the exchange of the existing 40 million handguns already in the possession of American civilians.

One way to address that issue is to require notice of transfers of all handguns. Under this approach all transfers of handguns between private persons would be required to take place on the premises of a licensed dealer.

It is my understanding that this is a measure that has been considered by the Department of Justice. I am hopeful that during today's hearing the Justice Department representatives will be able to offer the committee extensive information about the potential effectiveness of a transfer notice program.

Because the threat of injury and death due to handguns is needlessly too real for every citizen in this country. We cannot move too soon to stop the effects of handgun violence.

I am fully convinced that today's hearing can be another useful forum to once again remind the Congress that we bear a fundamental responsibility for the enactment of safeguards against handguns.

Each day, our hospital emergency rooms, and our municipal morgues bear witness to the inhumanity of handgun abuse.

There is no foundation to the mindless propaganda of the gun lobby. Only the imposing evidence from other communities of the world sustain the requirement to restrict handgun possession in the United States.

There were 189 murders in Tokyo, Japan in 1974. In New York City there were more than 1,500. In all of Japan, there were 1,708 reported murders last year; but only 72, or about 4 percent, that involved guns. Compared to other nations of the world, statistics on gun violence make the United States appear to be an untamed,



immature adolescent, that has little or no sense of civic or personal responsibility.

More mature civilizations of the world, in Europe and in the Far East clearly demonstrate what is required to shield ourselves and our families from the barrage of too many bullets from too many guns.

I believe that we in this country can bring an end to the violence caused by handguns.

Senator BAYH. Perhaps our colleague from Nebraska has some remarks that he would like to make.

Senator HRUSKA. I shall forgo remarks at this time, Mr. Chairman, because, regrettably, the full Judiciary Committee has a meeting of all of its members at 10:30. And, of course, we will have to forgo hearings here, I presume, in order to attend another very important subject, namely, having to do with school busing, that has also claimed the attention of many citizens and many people.

Senator BAYH. I would say that our subcommittee has permission from our Judiciary Committee chairman that we can go ahead and hold these hearings, while the busing hearings are being talked about.

Senator HRUSKA. The chairman has not consulted with the ranking member of the other party, and that is a subject that I shall discuss with him and with you, also, Mr. Chairman, a little later.

Senator BAYH. We have been working in this area of handguns and firearm control for a long period of time. I would hope that we can diligently pursue some type of legislation that will make progress to limit those weapons that seem to be the weapon of choice by the criminal element. We now have a more comprehensive approach to the handgun than we have previously been able to succeed in legislation.

I think that breast-beating, short of legislative accomplishment, is not going to do much except raise expectations and then dash them again. But we are going to see a difference of opinion in the committee as to which course we should take. I hope we will be able to make some progress.

Senator Percy and Senator Javits are with us.

Gentlemen, why do you not just proceed according to your own plan?

Senator JAVITS. Would you inform us how much time we have, because we will adjust ourselves to whatever you say.

Senator BAYH. I do not know how the Senator from Nebraska feels. Personally, I want to go ahead and try to conclude today's hearings. We have scheduled witnesses here. After we had already scheduled these hearings, the Judiciary Committee did decide to hold the busing hearings. I would like to go ahead and conclude this morning's hearings.

Senator JAVITS. Mr. Chairman, would it be agreeable to the Chair if I took 10 minutes on my direct testimony? Senator Percy took 10 minutes on his direct, and then we had whatever questions the Chair or any other member wishes. Would that be satisfactory?

Senator BAYH. We just have three witnesses this morning. You gentlemen may do that, and then Mr. Ronald Gainer of the Justice Department will try to terminate the hearing.

Senator PERCY. I think I can restrict myself to 5 minutes.

Senator HRUSKA. The procedure you outlined is fine, and I am sure that more than 10 minutes will be agreeable, without waiving any of my rights with some forensics and rhetoric between the chairman of this subcommittee and the chairman of the full committee, by way of the prejudice to other engagements. However, I recognize the practical situation, and the course you describe is agreeable with me at this time.

Senator JAVITS. Mr. Chairman, I ask unanimous consent that my prepared statement <sup>1</sup> be incorporated in the record.

Senator BAYH. Without objection.

### STATEMENT OF HON. JACOB K. JAVITS, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator JAVITS. Mr. Chairman, the major point that impresses me here is the real difficulty of getting action, and I feel that in the Government Operations Committee we are really trying very hard to cooperate with the Judiciary Committee. The governmental reorganization provision in our bill is under active consideration in our committee. Senator Percy is the ranking member. I am immediately after him myself.

We have already had some hearings. But I would like the Chair to understand that we recognize his own leadership, that of Senator Hruska and other Senators on judiciary in this field, and we are thoroughly prepared to cooperate in the most intensive way. The only real hope we have is that we may spur action with new ideas and a greater effort to build public opinion. We must let the public know what is at stake. We must undertake new efforts to end some of the misconceptions, and I will mention one big one in a minute, which assail this particular problem.

The second thing I would like to point out to the Chair is that we have ourselves been assailed by the representatives of the police chiefs of the country, five of whom testified before Government Operations. I would like the record to show who they are: the police chiefs of Boston, Los Angeles, San Antonio, Atlanta, and Newark. They took us to task for doing too little too late; they did not believe that a control mechanism which is in our bill, S. 2153, a technique of trying to deal with the problem in the larger population centers essentially by prohibition, is adequate. They strongly believe that we need a nationwide prohibition against the rank-and-file citizen possessing and owning handguns.

It was very interesting, Mr. Chairman, because one of the witnesses, the police chief of Newark, actually said that he thought we should not pass any bill unless it were a total prohibition bill. He felt that strongly about it, even if it meant more wanton killings than would otherwise take place. Well I disagree with this view, I think this was a very, very critical point.

<sup>1</sup> See p. 790.



## NEED WAITING PERIOD FOR POLICE CHECK

The other point which I would like to mention to the Chair is that we are trying also to meet some of the views of the administration. For example, the administration itself now concedes that you need a waiting period when somebody wants to buy a gun to give us some opportunity for a police check. And we thoroughly agree with that, and it is incorporated in our bill.

The important point is, however, check up against what record system? In other words, you need some comprehensive, fundamental repository somewhere, some kind of master file or list if you are going to do any meaningful check on a person who may be a felon or a mental case, in order to determine whether or not that particular transfer should be made.

Finally, Mr. Chairman, we have set a figure of 50,000 as the city or the SMSA which could be subjected to a complete prohibition under our bill. We are not tied in any way to that figure. On the contrary, this is a matter which is open for consideration and debate. We ourselves are much more interested in what are the parameters. You could go to 50,000, which would cover 62 SMSA's and most large American cities; or you could go to as high a figure as 250,000 population, and there you would include some 27 cities, with many States having no such cities at all. I favor moving toward the higher figure.

Now, we do not claim that that is the optimum ideal, but we are interested in the realities and not the theories. And the realities of the situation, from the votes on the Senate floor, would seem to be that the fewer States you involve, the better off you are, provided, of course, that you do not simply abort the whole process because of involving so very few.

Now, Mr. Chairman, our bill, which is before the committee, S. 2153, does not contain a mandatory registration. But in the final analysis, by the techniques which we have, which require notice to the Department of all original and private resales as well as basic identification information from manufacturers and importers, we will build up a file which will enable guns to be traced. By combining this form of registration with the regional ban plus other measures in our bill, we could have an important impact on the problem.

Our objective is to monitor very carefully and to take account transfers and losses and stealing, all of which will at least require an initial report. So that while, again, we cannot totally prevent illegality by such a system, we will have a substantial impact upon the tragic situation which faces us.

## TRANSFER OF AUTHORITY TO JUSTICE

Aside from the transfer of authority to Justice from the Treasury Department, those are pretty much the principal outlines of our bill.

Now, just a few points, and I shall hope to finish well within our time limitation. Aside from the police chiefs, we had extremely important testimony from the district attorney of New York County, Bob Morgenthau,<sup>1</sup> who is very well known to the committee

<sup>1</sup> See p. 793.

and who has also been a distinguished U.S. attorney in the southern district of New York.

He felt that one of the major disappointments of the administration bill was its very failure to restrict the private possession of handguns in particular geographic areas suffering from high rates of crime. If the committee will recall, this idea was first proposed by Attorney General Levi, and we have adopted a modified version of it in our bill. But the administration has apparently not stuck with it.

Now, one of the things that Bob Morgenthau emphasized which is critically important is the question of—at least I think it is critically important—is the question of why a law like that in New York does or does not work. We have a very tough law in New York. And he pointed out notwithstanding that we are supposed to be such a den of iniquity and crime, the fact is that we rank very far down on the total list of the 10 most important cities in the country in terms of crimes committed with handguns and in terms of homicides, with two Texas cities way ahead of us in that regard, where there is no effort to impose gun control at all.

I would like to point out to the committee from my own personal experience as attorney general of New York that one of the very handy tools which we find in the Sullivan law is that it leads to an opportunity to search an automobile, for example, which may be stopped for other purposes, because there is a felony on the books relating to a Sullivan law violation. Many crimes have been stopped before they could occur by police officials finding the presence of a gun in the car, generally in the car, either concealed or unconcealed, often unconcealed, which is a kind of a fallout benefit which we get.

#### SATURDAY NIGHT SPECIAL DEFINITION

Now, as to the Saturday Night Special, our bill provides a definition to be made by the Attorney General. There are other ideas, but we think that is the best idea, because it is so easy to avoid a definition which does not keep pace with the effort to avoid the consequences of the definition. So we can commend that to the committee.

Finally, Mr. Chairman, to my mind, two very big and important facts, that we are really unique among the civilized nations of the world in the relatively uncontrolled way in which we let people have handguns. The figures are as follows. There are 102 foreign countries which were surveyed in 1968; this is the last figure that we had; 29 European, 15 North and South American; 21 Asian and 25 African countries. Of these, the list I have made, 90 require national licensing or registration to possess or carry any firearm. Five European, two Asian, and three African countries prohibit the possession of handguns under any circumstances whatever. In short, we are relatively unique among the civilized people of the world.

Then, also, before the Government Operations Committee we had a poll released last Friday, a week ago Friday, by Lou Harris, who testified before our committee that 73 percent of the American people now favor registration of all gun purchases. The significant point is that this is up from 66 percent in 1967, and that even among all gun owners, they favor such legislation 63 to 33 percent.

Mr. Chairman, I ask unanimous consent to include the testimony of Lou Harris describing that poll, in the record,<sup>1</sup> if I may.

Senator BAYH. Without objection.

Senator JAVITS. I said I would come back to this point. One of the things we hear the most is, what about keeping a handgun in the house for self-protection in a highly populated area, in view of the high crime rates?

The police chiefs were very helpful on that, and I would like to, Senator Bayh, if I may, include whatever are the excerpts that we will give you of that testimony, including the q. and a. for this particular record, which might be useful to you.

Their testimony was that when you carefully evaluated the degree of protection which a handgun in the home provides—the fact is that it amounts to virtually none. Presence of guns in the home result in a high number of gun accidents in the home, both with adults and children. They unanimously far and away discount any idea that the individual family is better protected when it has a gun in the home. On the contrary, their profound conviction was that it was much more dangerous, much worse protection, and that they were infinitely better off relying on the police.

Thank you, Mr. Chairman.

[Testimony continues on p. 811.]

#### PREPARED STATEMENT OF SENATOR JAVITS

Mr. Chairman, I wish to thank you for inviting Senator Percy and myself to testify on the subject of Federal firearms control. I applaud the long term efforts of this subcommittee over the past several years to deal with this difficult issue and your continuing determination to find solutions which will work and at the same time muster the necessary support to get through Congress.

The Senate Government Operations Committee has undertaken to join with the Judiciary Committee in a cooperative effort to develop effective legislation to reduce the escalating level of handgun violence. In our Government Operations Committee we are seeking to examine and eliminate the consequent strain which has been placed upon our integrated system of local, State and Federal Governments in their efforts to control this deadly commerce. It is precisely because this problem constitutes an intergovernmental issue of substantial proportions that our committee has undertaken its initiative in this field.

The two bills which Senator Perry and I introduced earlier this year, S. 2152 and S. 2153, are designed to provide a comprehensive, workable approach to the problem of almost unlimited availability of handguns. They could and hopefully will provide a framework within which we can evaluate the assumptions which underlie the theory of the 1968 Act itself, as well the traditional arguments advanced by both the proponents and opponents of stronger Federal gun control measures. While they are not perfect by any means, and while I intend to propose several amendments to the bills myself, I believe that they contain the elements of an effective means of dealing with the problem.

That problem broadly stated is that existing controls on the manufacture, sale and possession and use of handguns are inadequate, misunderstood and not substantially effective. Strong enforcement of the '68 Act is extremely difficult because of the inherent weaknesses in the law. I believe that this Nation's experience shows that gun control laws can work and that stringent control laws reduce homicides.

While I have personally supported a total ban on the private possession and sale of handguns to all except police, military and private, closely regulated pistol clubs, I am keenly aware of the strong feelings held by many in this

<sup>1</sup> See p. 796.



Congress that some of the options proposed for the Federal control of handguns (1) will not work, or (2) are unacceptable politically.

Senator Percy and I have no illusions on that score. We believe that working together our committees can develop legislation that can command majority support in both Houses. However, I do not feel that political realities should give way to the passage of legislation which is neither strong nor meaningful. Such an approach can only mislead the American people and inevitably postpone constructive action on the Federal level for several more years into the future.

I should say that I do not share the view of some proponents of gun control that the 1968 Act has been a total failure and is flawed conceptually. Its basic approach has been of some help to the States, although Congress and the Executive have never really made the commitment of resources necessary to have a measurable impact upon the problem. It was with this in mind that we introduced S. 2152 providing for a consolidation and strengthening of Federal law enforcement functions in this field by transferring all functions relating to the enforcement of the 1968 Act and now vested in the Secretary of the Treasury to the Attorney General.

The Alcohol, Tobacco and Firearms Bureau of the Treasury Department has been overburdened and overextended in its efforts to curtail the tidal wave of illicit handguns. In addition to the enforcement of Federal gun laws, this organization must enforce Federal alcohol and tobacco laws as well. It has only 1,500 agents and an annual budget which is less than 1.2 percent of its collected revenues—which are almost \$8 billion per year.

Most importantly it cannot adequately supervise the more than 156,000 federally licensed gun dealers and assist State and local law enforcement agencies in the tracing of weapons used by dangerous offenders. Its present capability in this area is crippled by a system characterized by long delays and lack of reliable information relating to the last legitimate purchaser of a handgun.

Law enforcement officials have stated that we now have no intergovernmental system for developing regional and national statistics on handguns which have been used in the commission of crimes and that timely tracing is now extremely difficult if not impossible. That is of particular concern to our committee which has heard extensive testimony from law enforcement officials from several States concerning the need for new and improved federal-local gun controls.

It is of the utmost importance that we modernize, reorganize and upgrade the Federal capability in this field and develop an interrelated system of information verification and handgun identification running from manufacturer, to dealer to first owner and to private resales of handguns. The use of Federal-State task forces can also be of great value in bringing greater pressure to bear on interstate gun running operations, and my legislation so provides.

Our second and related bill (S. 2153) is designed to remedy the inherent weaknesses in the 1968 Act which have made strong enforcement under that Act extremely difficult. It combines a number of proposals which I believe represent a reasonable and moderate approach to the problem. It would strengthen our ability to deal with the problem by:

(1) Requiring verification of personal identification information required to be submitted by a prospective purchaser and a prescribed waiting period prior to delivery or shipment of any firearm.

(2) Covering sale and resale of firearms between private persons who are not dealers, manufacturers, and collectors as regards verification of eligibility.

(3) Requiring the development and enforcement by the Attorney General of national theft prevention and security standards which would apply to all licensed dealers, manufacturers, importers, collectors and common carriers.

(4) Banning the sale or delivery to any one person of multiple handguns in excess of one in any 1 calendar year except to police and other governmental units.

(5) Developing adequate licensing standards to assure that Federal licenses to manufacture, import, or deal in firearms will be issued only to responsible persons legitimately engaged in such business.

(6) Banning with proper exceptions the possession, sale, use or importation of handguns in public or private in any standard metropolitan statistical area—SMSA—where the violent crime rate is 20 percent above the national average, or where it is 10% above the national rate and 5 percent above the prior year's local rate.

(7) Banning the domestic manufacture, sale, transportation, or possession of Saturday Night Specials.

Mr. Chairman, the initiative of President Ford and Attorney General Levi in this field represents an expression of concern at the highest level of government that we must act to reduce the senseless proliferation of handguns in America. While the administration has opposed the Federal registration of guns and the licensing of gun owners, which I have long supported, the President does recommend the establishment of a waiting period for gun dealers to verify that potential purchasers are legally eligible to purchase and own one. That would constitute a major improvement in the 1968 Act and it is included in the bill we introduced.

Unlike the provision in S. 2153, however, which would mandate a national or FBI name check on the prospective purchaser during the waiting period, the administration bill merely gives local police the option to request such assistance. We believe the mandatory, uniform, national post card clearance system proposed in our bill is the better approach. Without such a provision, the prohibition in the 1968 Act on sales of handguns to felons and other high-risk individuals will continue to be unenforceable.

The provision in the administration bill to tighten existing law concerning qualification for federal firearms dealers licenses is laudable in view of the fact that the more than 150,000 dealers may now operate in violation of the law without being detected. Reducing the number of dealers by increasing dealers' fees and developing meaningful criteria and standards is long overdue. We recommend, in addition, that this subcommittee adopt a meaningful ban on the multiple sale of handguns to single individuals. That provision should bar any individual from purchasing, and any dealer from selling to such individual more than one handgun per calendar year. Our bill so provides in an effort to curtail the extensive interstate gunrunning operations which are facilitated by the failure of the '68 Act to restrict multiple purchases.

The administration bill does not propose a nationwide, information gathering system—which we do—under which handgun possession and transfer information including transactions between private individuals, i.e. second hand sales, and gross information from manufactures, importers, dealer, and collectors could be collected to assist local law enforcement agencies in tracing handguns used in crime. Robert M. Morgenthau, the distinguished District Attorney of New York County told our committee 2 weeks ago that such an integrated system as is proposed in our bill is critically needed by police throughout the country. Outlawing the transfer by the purchaser of a gun to anyone except or through a dealer is necessary.

A major disappointment in the administration bill is its failure to restrict the private possession of handguns in particular geographic areas suffering from high rates of violent crime. As you know, Mr. Chairman, such a system was originally proposed by Attorney General Levi. We have adopted a modified version of the suggestion in our bill. While it is far from perfect and needs improvement, limiting any Federal ban to metropolitan areas where crime rates are the highest and where such a ban is most acceptable politically, should have substantial potential. Traditional political opposition to such an approach should be reduced.

Under the provision as it now appears in our bill, 62 Standard Metropolitan Statistical Areas, including New York City, Chicago, Washington, Los Angeles and San Francisco would be covered. In an effort to make this approach even more viable politically, I would suggest modifying it to include only SMSAs which are above a certain population density, say 100,000 or 250,000. If we included SMSAs having a population of 250,000 and a rate of violent crime 20 percent above the national average, the ban would apply to only 26 SMSAs.

The principal criticism of the Attorney General's and our proposal, and a general disadvantage of a regional gun control approach is one which has plagued attempts at localized gun control. It does not limit handguns in the uncontrolled surrounding areas from which the weapons may continue to flow. The criminal misuse of handguns is a national problem which exists to some degree in every area of the country. The programs that propose to deal with the problem on the local level or on a regional basis must confront and overcome the basic fact of handgun mobility. It has been the failure to do that which has undermined strong and effective local laws, like that in my own City of New York.



It is therefore essential to link the regional ban approach with a combination of other proposals which should have the effect of cutting down on that flow. Some form of registration is necessary. The sum total of information gathering and verification processing in our bill is very close to a national registration and licensing system without some of the unattractive aspects of other approaches. I hope that the subcommittee will examine this proposal carefully.

Mr. Chairman, while I am very sympathetic to what you and other members of this subcommittee have been trying to do in connection with the problem of the Saturday Night Special—and as you know, I voted for your 1972 bill—I think it is critically important that any action we take on the banning of this class of weapons be designed to cover the broadest number of handguns. The definitions of Saturday Night Specials vary widely from design criteria only effecting the quality or safety of the weapon, to size criteria effecting concealability. Definitions abound involving price, size, caliber, barrel length, metallurgical construct and make.

The important factor on this question is the amount of handgun crime which is attributable to the Saturday Night Special. Without an agreed upon definition, it is difficult to develop appropriate data. Nevertheless, it is today a very hotly contested question among proponents and opponents of gun control. The Attorney General has claimed that as much as 70 percent of violent crime involves this weapon, while the New York City Police Department disputes this. Police officials from five cities who testified before our committee have stated in the strongest terms possible that a large percentage of handgun crimes involve high quality, expensive weapons. The weapons involved in the attempts on the life of President Ford were not Saturday Night Specials under any definition.

If the definition is sufficiently broad enough to cover the widest possible range of weapons, such a ban could be a significant part of a comprehensive approach to gun control. I would support it in conjunction with other measures.

Mr. Chairman, last Friday the well known national polling expert, Mr. Lou Harris testified before our committee that 73 percent of the American people now favor registration of all gun purchases, up from 66 percent in 1967. Among all gun owners 63-34 percent favor such legislation and among handgun owners, 64-33 percent favor such legislation. The level of handgun violence in our society is appalling and it is escalating every day. Although I have been concerned about the lack of a strong, Federal law on this subject for many years and have supported a variety of handgun control measures, I have rarely been as impressed and as deeply moved by any hearing witness, as I was with the eloquent testimony of the police officials who appeared as a panel before our committee. The frustration—almost despair—implicit in their testimony is a direct consequence of our failure to act. Facing as they do every day a rising wave of handgun violence, they have implored us to heed the demand of the increasing majority of the American people for meaningful controls. We stand ready to cooperate with you in every way possible to achieve that objective.

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STATEMENT OF ROBERT M. MORGENTHAU, DISTRICT ATTORNEY OF NEW YORK COUNTY, BEFORE THE U.S. SENATE COMMITTEE ON GOVERNMENT OPERATIONS, OCT 7, 1975

Mr. MORGENTHAU. It is most encouraging that the Senate Committee on Government Operations has turned its attention to the need for gun control legislation.

As a law enforcement officer, I can think of no problem affecting the safety of our citizens which is more critical and more urgently needs the attention of the Federal Government than that of gun control.

The dimensions of this problem are staggering and frightening. In New York City, with a population of around 8 million people, informed surveys estimate that there are between 1 and 2 million illegal guns in circulation. Over one-half of the felonies prosecuted in my jurisdiction involve the use of guns. Last year 769 homicides were committed in our city with firearms, as compared with 445 only 5 years ago. It has become commonplace in New York City for the police to find guns in possession of youths of 14 or 15 years of age.

Our recent history of successful and unsuccessful attempts to assassinate Presidents of the United States and distinguished public servants has been sensationally documented in the press and grows more alarming every week. Killings of policemen occur in New York and other major cities with alarmingly greater frequency than was true a few years ago.

While the assassination of a leading public figure or police officer still receives prominent press coverage, it is sad to say that the murder of an ordinary citizen has become so commonplace in our big cities that it commands no press or public attention. A recent study revealed that in the United States over 25,000 people a year are being killed by firearms.

It is perfectly clear to me that the problem demands effective Federal legislation which would close up the sources of supply to gangs and criminals in the cities and which would help law enforcement authorities in crime detection.

Opponents of Federal legislation argue that prior experience has demonstrated the ineffectiveness of control laws. They point out first that the Federal Government has already passed a control statute in 1968. They further point out that New York's severe gun laws have done little to help the problem in New York City. They declare, "It is people, not guns, who kill. Outlaw guns and only the outlaws will have guns."

Those arguments are superficial, deceptive and false:

First, as to the Federal Firearms Control Act of 1968, it was a statute designed for failure. Due to the efforts of the powerful gun manufacturing lobbies, it was not designed to shut off the supply of handguns to the thugs in the cities. It was rather designed to insure that those thugs would "buy American". The act closed off the U.S. market to foreign manufacturers of cheap handguns. Domestic fabricators were quick to pick up the slack. While the act includes hollow utterances prohibiting interstate sales, it was designed to make those prohibitions unenforceable. The result has been a booming market for handguns in those States with lax selling laws. The great majority of those handguns have been purchased for resale to illegal possessors in New York and other cities.

The 1968 Act does not require sellers to verify the identity or background of purchasers. It does not permit the Alcohol, Tobacco and Firearms unit of the Treasury Department to collect bulk information on purchasers. In short, it contains no effective restraints on the flow of handguns into our cities.

The argument that the ineffectiveness of the strict gun control laws in New York shows the futility of such legislation is a faulty conclusion based on faulty premises. First, although the situation is very bad in New York, it would be considerably worse without its gun control laws. A study conducted in 1973 found that the murder rate in New York City was the second lowest of the 10 largest U.S. cities and that it was considerably lower than in Dallas and Atlanta where there are no local controls. Also, the percentage of crimes committed with firearms was found to be lower in New York City than the national average. The Eisenhower Commission staff report found, in 1967, a substantially lower percentage of gun murders in New York than in other major cities.

More importantly, however, local gun possession restrictions can be only marginally effective if they are not coupled with nationwide measures designed to stop the flow of handguns. I do believe that possession of handguns should be prohibited in high density areas. I believe the Federal Government should impose such prohibition for heavily populated areas on a nationwide basis. But even such a prohibition would not be effective unless the sources of supply to city criminals were closed.

If every year a river overflows and floods several towns downstream, you would not deal with the problem "at the local level" by handing out mops to the townspeople. It would of course be necessary to control the flow of the waters. The same is true of guns. Tough local possession laws will not stop their flow into major cities and crime centers. There can be no substitute for nationwide restrictions on the sale of handguns.

I would like to make a few comments to the bills which are before this and other committees of the Senate.

Section 4245 of S. 2153 provides for the establishment of a statistical office in the Department of Justice which will maintain a file identifying each person who possesses a handgun. Section 4247 requires dealers to furnish such information to the Department of Justice upon each sale of a handgun. The

maintenance of a data bank is of vital importance for crime detection and law enforcement. It is essential to require subject to Federal criminal penalties, that every person possessing a handgun furnish identifying information to the Department of Justice.

The dealer is forbidden by the act to sell firearms without first checking the identity of the purchaser with the Justice Department. This is a desirable provision which will help keep firearms from being purchased by fugitives and felons. Hopefully it will also help control sales to traffickers who buy for resale in city markets.

A weakness of the act, together with the Firearms Control Act of 1968, is that they do not adequately provide against resale or transfer to a resident of a different state. While such resale is technically forbidden, the prohibition is virtually unenforceable. We should recognize that resales are the heart of the problem of gun control. To succeed in keeping guns out of the hands of criminals in the cities, we must pass effective measures to control resales.

A recent study conducted by the New York City Police Department of handguns seized during a 6-month period showed that 75 percent of them had been sold by dealers in other States; 69 percent of them had been sold by dealers in four Southern States where the sale of guns is virtually unregulated. Of the guns sold in those States, 97 percent had been purchased by persons other than those later arrested in possession in New York.

It is clear it would be a mistake to seek to control the problem by regulating only the initial sale. To be effective, gun control laws must contain an effective method of monitoring or preventing resales. One approach may be to forbid any transfer by the purchaser of a gun except to a registered dealer. The original purchaser should remain accountable for his gun and should be required to present it for inspection on demand of a law enforcement officer.

Section 4249 contains a ban on multiple sales of handguns. The purpose is desirable, but the provision needs tightening. As drafted the prohibition is on a single dealer and forbids him to sell more than one handgun in 1 year to one individual. It does not forbid the purchase of more than one handgun by an individual. Thus an individual would be free to buy a handgun from every dealer in his State. The provision should apply to the purchaser as well as the seller. The purchaser on making his purchase should be required to certify that he has not purchased another handgun in the year. This fact would be verified by the Justice Department data bank before the purchase was consummated.

Two highly desirable provisions are those providing for the Attorney General to promulgate regulations governing licensed dealers and manufacturers and governing security standards for theft prevention. It is shocking to me that the present law does not even require the reporting of large scale thefts of firearms.

The provisions of Sections 4250-4260 adopt an interesting and, I think, valid approach to the problem of gun possession.

These provisions divide the country, essentially, into two areas: The high density, high crime metropolitan areas, and the rest of the country. The bill provides that within the densely populated high crime areas, sale, purchase and possession of handguns is forbidden. The rest of the country is not covered. I favor this approach. It does not interfere with the enjoyment of guns by people who live in the country where their enjoyment does not represent an unreasonable threat to others. It does prohibit guns in cities where they do represent an unreasonable danger.

While I favor the approach of outlawing possession of guns in cities, I believe it may be possible to improve upon the terms of this bill. The provisions for measuring and comparing crime rates between standard metropolitan statistical areas may be a complicated, difficult and questionable apparatus for telling us what we already know—that we have a serious crime problem in our major population centers.

I would favor a more simple and direct approach—which would be to outlaw the possession of guns in all major population centers, including their surrounding suburbs. I am not sure that anything useful is added by the statistical exercise of comparing crime rates between cities. The sad fact is that the crime rate is very high in all of our cities. On the other hand, I am not sure it is necessary to cover cities of only 50,000 inhabitants. Perhaps a somewhat larger population would make a more suitable dividing line.



While I support the approach of prohibiting possession in metropolitan centers, I would add an important precaution. Such a prohibition will not be effective unless it is coupled with nationwide controls on the sale of guns. To adopt a tough-sounding prohibition on possession in cities without doing anything to control gun sales would be to repeat the mistakes of the 1968 legislation.

S. 2152 is designed to transfer to the Department of Justice the statistical, record-keeping and enforcement functions which have historically resided in the Treasury Department. I support this approach. Guns are a law enforcement problem. It is most important to place all available gun information at the disposition of Federal and local law enforcement authorities to help solve and prevent serious crimes. I believe it would be a constructive step to place responsibility for these functions with the Department of Justice.

In addition, I reiterate the need for a national data bank collecting all possible information on the importation, manufacture, distribution and sale of guns. It should also receive data from all local police departments on the seizure of guns used in criminal activity. It should scarcely need saying that guns are a serious and dangerous matter of prime concern to law enforcement. It is unthinkable but true that innumerable murders and other serious crimes remain unsolved or unable to be prosecuted because of this country's failure to take the obvious steps of collecting and maintaining data on guns in circulation.

For many years all Americans have registered their automobiles without ever thinking that such registration compromised their freedom. Vehicle registration often provides essential clues for crime detection. By comparison, guns create a clear and present danger of abuse and of the commission of serious crime. It seems only reasonable that we collect all available identifying information to aid in crime detection and prevention.

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TESTIMONY OF LOUIS HARRIS, PUBLIC OPINION POLLSTER, BEFORE THE U.S. SENATE COMMITTEE ON GOVERNMENT OPERATIONS AT HEARINGS ON PRESIDENTIAL PROTECTION, OCT. 24, 1975.

Mr. HARRIS. Mr. Chairman, it is a great privilege to come before your committee this morning, for there is no subject which has so upset and disturbed the American people for over a decade now than that of the pervading pall of violence which seems to hang over our land and to take such a frightening toll of our citizens, our leaders, and, indeed, threatens to destroy the very fabric of our national life.

I come before you not as a partisan for or against gun control in even the slightest respect. I appear here rather, as a professional, whose task, as I see it, is no less than to report accurately, fully, and fairly on just how the American people see this issue of gun control, and, I might add, Mr. Chairman, protection of the President. We have just concluded a major study on gun control conducted between October 16th and October 20th among a cross section of 1,519 adults nationwide at my firm's own expense as a public service, and I might say, Mr. Chairman, at my firm's own expense as a public service.

Chairman RIBICOFF. May I add. 1519 is a fairly broad sample is it not?

Mr. HARRIS. If there were 15,000 or 150,000 or a million five hundred thousand, by the way we do it, the results should not vary by more than three percentage points, because we can say truthfully that each adult in the population has an equal chance of being drawn into the sample. My basic obligation here today is to report to you and to the people themselves just how they see this issue and what they want done about it. My task, at least as I view it, is to put together what the people out there are trying to say.

Right at the outset, let me report that the American people may have low confidence in politics, politicians, government at all levels, the White House, the Congress, and the U.S. Senate, but they have not lost hope. They do not feel that we are a doomed giant of a nation in the last throes of other empires of the past, where corruption is rife, where the disease of disintegration has reached an advanced stage, and where desperation reigns. A solid 95 out of every 100 Americans believe in our system of pluralistic democracy. But, above all they want it to work.

On the subject of these hearings, by 59-34 percent, as of last week, a majority of the public just in the past two weeks told us they do not believe

that "This country is inclined to be violent by nature." Despite the hideous record of streets that are no longer safe to walk on, rising violent crime rates, the murder in cold blood of one President, the killing of his brother almost five years later, the assassination of the outstanding black leader this country produced in this century, the assassination attempt of a Presidential candidate in 1972, two attempted assassinations of our current President, and countless other traumatic killings of policemen, public figures, bizarre kidnappings, bombings, and other violent acts, our people still are not prepared to say that our legacy is violence. They do not think violence is inevitable. They do not think violence is in our bones, that it is an integral part of the American character.

However, by 77-15 percent, an overwhelming majority also think that "we are slow to find ways to control violence." I think, Mr. Chairman, if I might suggest, the Senate ought to heed that. A 73-20 percent majority believe that "America is an easy place in which to commit assassinations." Obviously, they think there is something deeply wrong with the way we have coped with violence as a grim reality of life in this country in the middle of the 1970's.

Let me take up directly the matter of assassinations of our Presidents. A high 83 percent of the American people report that they are concerned today that President Ford or a candidate for President will be assassinated. More shocking is the additional fact that by 74-19 percent, a lopsided majority of the public is now convinced that "It is impossible for a President to avoid being assassinated if someone really wants to shoot him." At first glance, one might conclude from this result that people are simply being realistic. After all, no matter how tight the security of the Secret Service or local police or other security forces, it is probably correct to estimate that a Lee Harvey Oswald taking dead aim out of a book depository window or a James Earl Ray firing from the blind of a stake-out across from the balcony Martin Luther King stepped out on, or a Sirhan Sirhan firing a handgun at close quarters in a kitchen of a Los Angeles Hotel to murder Robert Kennedy—all these and other searing events we have lived through could not have been stopped as they happened.

But there is other, deeper meaning to the fact that by 4 to 1 our people think no President is immune to the successful accomplishment of an assassination mission. Just think of it, Mr. Chairman, in this light, if you will. The American people are saying the incredible fact is that on the eve of our 200th anniversary, this country of ours, a modern, giant colossus of a nation, the possessor of both the most advanced technology the world has ever seen, as well as the most destructive nuclear arsenal ever assembled, the leading superpower of the universe, for all of this vast array of power, might, and status, we are virtually powerless and helpless to keep our leader, the President of the United States, from falling the victim of assassination if some strange or demented or crazed individual takes it into his or her head to buy a gun, plot out some point of small public exposure of the President, and shoot him on sight. The shocking fact is that our people are saying that any leader of this democracy must perforce be assumed to live on a regular diet of being in mortal peril whenever he comes into contact with any of his fellow citizens.

At the same time, the public will not opt for having the President become a prisoner of a fortress existence, where he is only seen on television and never in person, where he will not venture forth from a prison called the White House, unless it is to military installations or similar fortresses where the public is to be banned. No more than 9 percent would have this President take that extreme measure of stopping all of his public appearances. By the same token, only 18 percent feel so fatalistic that they are willing to see the President make unlimited appearances in public as has been generally the case in the past. Instead, a clear majority of 65 percent feel that the President should make only a limited number of public appearances under carefully protected conditions. In essence, the people are not going to give any President in the future high marks for machismo for foolishly laying his life on the line to prove his manhood. At the same time, the people are not willing to tolerate national leadership which, in fear of its own life, must hide from the very people it is meant to represent. The answer is caution and limited and calculated risks in public appearances by Presidents and Presidential candidates.

One element in this central problem of violence and assassinations which is the direct focus of these hearings deals with the availability of guns of all types and kinds in this society. In just going through the public's attitudes on



assassinations, one key link to make them so imminent and impossible to defend against, people feel, is the easy availability of guns for assassins to use. An assassin might be successful using some other weapon, but guns are both convenient and lethal enough to efficiently do the job.

It is not overstating the case to say that the availability of a gun is a central pivot for the perpetrator of violence, for the assassin who waits in the dark.

As a nation, the facts show that we are armed to the teeth with guns. Right today, 47 percent of the Nation's households report having a gun. This is markedly up from 41 percent who reported having guns exactly seven years ago this October, in 1968, when many of the country's cities were burning and when we thought we were in our most violent internal period since our tragic civil war. Ownership of guns is not distributed evenly among our population. By region, only 29 percent of people in the East own guns, compared with a much higher 50 percent in the Midwest, still higher 52 percent in the West, and a high of 61 percent in the South. While no more than 30 percent of the people in big cities own guns, 42 percent own one in the suburbs, 57 percent in the small towns, and 68 percent in rural areas.

Although 41 percent of white collar people and 42 percent of professionals own guns, 50 percent of skilled labor people, and a high 53 percent of business executives own one. A somewhat small number of 30 percent of black people own guns, while a much higher 51 percent of white people do. If white people in this country suffer from the illusion of a hostile black population armed with handguns and rifles, then think of how blacks who possess far fewer weapons must feel about the dominant white society that is armed to the tune of two-thirds more than the black population.

Among those who own guns, 70 percent have rifles, 66 percent shotguns, 49 percent pistols or handguns, and 7 percent muzzle loaders. For the most part, 43 percent bought their guns at a sporting goods store, but 20 percent bought it from a friend or other acquaintance, 15 percent from a hardware store, 13 percent from another kind of store, 1 percent from a gun or target club, and a somewhat mysterious 23 percent, that I cannot fully explain, but it is a high number, from "another private source", some of which are pawn shops, gun collectors, and other assorted merchants of selling guns. I cannot prove this, but the suggestion of these results is that there may be a kind of gun peddling underground in this country that perhaps this committee might want to find out more about because we get a quarter of all guns bought from other private sources, other than these and it suggests some mechanism of selling which at least I am not entirely familiar with.

When we step back and look at this pattern of gun ownership, the commanding and impressive fact is just how pervasive and generic gun ownership has become in this country. Just by way of illustration, more people own guns than dish washers, more own guns than stereo sets, more own guns than smoke cigarettes or drink alcoholic beverages. While 43 percent of the American people smoke cigarettes and 40 percent drink hard liquor, 47 percent own a gun.

We do not have numbers of gun ownership in other countries of the world. But it is probably a safe bet this affluent America, this land of abundant milk and honey, this haven of civilized democratic life is indeed armed to the teeth more than any other people on the face of the earth, albeit it is our constitutional right to own a gun.

Before reporting directly on how people feel about federal gun control registration, let me report that by 51-44 percent, a narrow majority of the American people do not believe that if laws were passed making it harder for people to get guns, there would necessarily be less violence in the country. People in the East, the suburbs, the cities, and union members, all think that there would be less violence. But in the Midwest, South, West, small towns, rural areas, and gun owners themselves disagree. They tend to think that the causes of violence run deeper than merely the question of how many people own guns or the difficulty they have in obtaining them.

Upon further probing in our survey, it became evident why a slim majority does not feel that gun control in itself would make the violence in the country appreciably decline. We asked the cross section of the public about 16 different possible contributors to violence, and for each, whether it is viewed as a major or minor contributor to violence in the country today or hardly a contributor at all.

At the top of the list, cited by 75 percent as a major contributor to violence, is organized crime, which our people feel our law enforcement officials have just not brought to hand at all. Next came a cluster of militant and revolutionary groups, 65 percent; black militant groups, 61 percent; urban guerrilla groups, 61 percent; Communists, 54 percent; left wing radical groups, 54 percent; and extreme right wing militant groups, 52 percent. Note well that the extremes of both the left and right are viewed as almost equally harmful and dangerous in generating violence. I will suggest, Mr. Chairman, that anyone who tries to lay violence to the exclusive doorstep of one ideological group of the left or right is flying in the face of public credibility in this country.

Then, below these forces of organized crime and radical, revolutionary groups, and standing alone, important in its own right, is "The easy availability of guns." A substantial 49 percent of the public believes this easy access to guns is a major contributor to violence, another 29 percent feel it is a minor contributor, and only 18 percent say it is "hardly a contributor at all." It is fair to conclude that the reason 51 percent feel that gun control laws would not necessarily mean less violence is that there are organized groups in this society who would know how to possess the weapons of destruction no matter how many laws are on the books, and therefore gun control by itself would not do the job alone.

Clearly, people want vigorous action taken to curb organized crime and to curb the militant, radical and revolutionary group who engage in violent activity, and that is a higher public priority than gun control.

But gun control in turn outstrips a number of other favorite targets often blamed for violence in this country. Television crime shows are viewed as a major contributor to violence by 41 percent, press coverage of violent acts by 36 percent, citizen vigilante groups who train people to handle guns by 85 percent, Congress not passing strict gun control laws by 35 percent, the President for not pushing hard for strict gun control laws by 29 percent.

Bringing up the rear on this list of major contributors to violence are the National Rifle Association, seen as a cause of violence by no more than 14 percent and hunters who hunt animals by only 9 percent. Let me make it clear that I am not passing judgment on the soundness nor wisdom of the public's view here this morning, nor the accuracy of its knowledge about just who does or does not contribute to violence. But I would have to say those favoring gun control who have painted the National Rifle Association as a prime generator of violence in its opposition to gun control legislation have simply not made a dent in the reputation of the NRA. Perhaps, that is one reason why that organization is so effective.

The point, however, that does emerge from this last set of findings of our study is that 68 percent of the American people are now convinced, the NRA notwithstanding, that "easy availability of guns" is a contributor to violence in this country. That is an impressive number, for it means two out of every three adults are convinced of that fact.

Thus, we come down to the basic measurement of just what kind of legislation on gun control people favor or oppose. On the basic proposition of "federal laws which would control the sale of guns, such as making all persons register all gun purchases no matter where the purchases are made," the public would favor such laws by a decisive 73-24 margin. This latest result marks an increase from a comparable 66-28 percent majority who favored such legislation back in 1967. Now, among key groups in the population, in the East, an 85-12 percent majority favors gun control registration, in the Midwest, it is 73-23 in favor, in the West 70-27 percent in favor, and in the South, least of all, but still, 62-34 percent in favor. In the big cities, it is 76-19 percent in favor, in the suburbs an even higher 78-20 percent in favor, in the small towns, where we saw gun ownership quite high before, 73-25 percent in favor, and in rural areas 64-32 percent in favor. Now let me get to the key dimension of gun ownership. Among non-gun owners, whom I might add, Mr. Chairman, also have rights on this issue, a high 83-13 percent majority feel that gun registration laws must be passed. Among all gun owners, a significant and revealing 63-34 percent majority favor such legislation. And among handgun owners, a 64-33 percent majority favor such legislation.

Now let us take two further acid test questions we asked. The first deals with rifles and the proposition that no person in the country could buy a rifle without first getting a permit by law authorities. By 66-30 percent, a solid

majority would favor that provision. Among all gun owners, a 54-42 percent majority would favor the necessity to obtain a permit before buying a rifle. Among those who own a handgun, a narrower 51-43 percent majority would favor it. Now on requiring that all handguns people own be registered with federal authorities, a 77-19 percent majority, the highest yet would favor that law, up sharply from a 66-30 percent majority who felt the same in 1971. Among gun owners, 69-27 percent would favor mandatory registration of all handguns, and among those who own a handgun, 61-33 percent would be willing to submit to registration themselves.

These results are decisive and beyond any doubt of whether the American people favor gun control. The answer, decisively and firmly, is that they do. They do not see gun control as a cure-all to violence in the country. They do not see violence being stemmed easily or quickly by it. But what they are saying as I read and hear them is this: We want federal control of guns quickly and decisively. We do not believe such a step will make our country all calmness and tranquility, nor that violence will go away. But we view gun control legislation as a necessary, critical and primary first step. It is better to control guns than not. It is better to try to alleviate the boiling pressures of violence through gun control at the federal level than to leave it to chance, and to then come up one day an aggrieved nation mourning the loss of another leader, ashamed because we are little better than the most primitive society, that our claim to civilization has been made a mockery of again.

This matter of violence is both our national trauma and our national shame. Gun control will not do the whole job, but we must begin somewhere. There is as clear a national mandate for this committee, for the House, and for the Senate as any you have ever had. Mr. Chairman, the cries from the people this morning, not borne out of despair but certainly with much anguish, are: Do the job effectively and quickly, for there is a peril stalking us every day of our lives and it is time enough to snuff that peril out decisively, before it is too late.

Chairman RIBICOFF. Mr. Harris, you and your organization have rendered a great public service today. You have been involved in polling for many years. Many of those years you polled for men in political life.

Mr. HARRIS. I did indeed.

Chairman RIBICOFF. The three men that you are talking to on this committee are all deeply committed to gun control along the lines suggested by you. Yet, we represent a very small minority in the Senate of the United States or the House of Representatives. The three of us have polled, too. Once in a while a politician will take an issue based on principle instead of percentages. But most politicians look at the percentages from pollsters as if their very life depended on it. With the figures you have given us, 73-24 percent of the public favors such laws, it goes through every segment and every geographical location in varying degrees, gun owners and non-gun owners. How do you explain the reluctance of politicians and officeseekers and officeholders to advocate registration and licensing and gun control?

Mr. HARRIS. Mr. Chairman, I think you have operating as I have observed it the phenomenon of a clear minority, we can prove it is a minority, who oppose gun control, but that any minority being mobilized by forces such as the National Rifle Association and others at the time of election to have a single issue approach. People who are, say, members of the NRA are solicited and urged, as in the case of one of your former colleagues, Senator Tydings of Maryland, who, I think, widely was attributed, partly the loss, at least, to the gun control issue where he came out in favor of gun control and lost. You can arouse, exercise, and get out to vote a minority who cares about a particular issue and gun control is just one illustration of that, while the vast majority may oppose what that minority feels, but will be motivated to vote for all reasons, but that. It seems to me that what you have not had in this country are very many people running for office who make gun control a front and center issue, and then take the pain and trouble to go out and organize their natural constituency on it.

Chairman RIBICOFF. In other words, a natural constituency, the overwhelming majority of the American people, are for gun control?

Mr. HARRIS. No doubt about that.

Chairman RIBICOFF. But the politician has to have the courage to take on an organized minority?

Mr. HARRIS. That is true.



Chairman RIBICOFF. Is there any proof Joe Tydings lost just on the gun control issue? He happened to run against a very attractive experienced, independent individual who might have had appeal beyond the gun lobby, did he not?

Mr. HARRIS. No one can say that he might not have lost, Mr. Chairman, even if there had not been a gun control issue. But I have seen some data which would indicate that the gun control issue had some effect. But I think the answer is that the countervailing majority in that campaign and where this is used is not adequately organized. Mr. Chairman, may I suggest something else that is broader, really, than these hearings, but I feel obliged to say this.

I think the day in American politics when these appeals to specialized minorities, and I have certainly in my lifetime before I gave up polling for candidates even recommended this, so I have to confess some guilt in perpetrating the system, the idea would be to get 14 different segments of the given electorate, or it might be 50, but you get all these minorities, find out what appeals to them, say to them, "Look, I can get this for you, I will serve your special pleading or get you something special," and hopefully, on election day they will add up to more than 51 percent. I would say as a result of our divisions over Vietnam, as a result of the trauma over Watergate, as a result of the hard times we are living through now, we find, contrary to popular belief that is prevailing wisdom along the banks of the Potomac, Mr. Chairman, a tremendous and growing community of interest in this country. People wish that their leaders, one of the reasons for the decline of confidence in leadership is that they wish, just yearn for leadership which will see a larger community of interest beyond these specialized segment interests out there.

I think this gun control issue, if I might suggest, is a primary example of this.

Chairman RIBICOFF. We have a situation in the United States today where you have the President of the United States who is unwilling to take on the gun lobby. I mean he has come out against gun control. To my knowledge, no Democratic Candidate for the Presidency today is willing to take on the gun lobby.

Senator Kennedy, who is not a candidate, is the only man in the national limelight who is willing to take it up. The overwhelming number of Senators and Congressmen are unwilling to take it up. Yet, from your figures you disclosed that, should a candidate for national, state, or local office be willing to go to the mat on this issue and go to the people strongly with this issue with the figures you have, television, press, public appearances, and make it an issue, that the public will respond positively for that candidate as against a candidate who ducks it, trims on it or goes along with the gun lobby, is that not so?

Mr. HARRIS. Yes, Mr. Chairman. I think implicit in my testimony this morning, I would like to go back and dwell on it at this point because I think it involves how adequately those who favor gun control communicated. As I have studied the opposition to gun control, the basic argument used against gun control is, if you make it more difficult for people to get guns, all the innocent people who want guns for a variety of perfectly legitimate reasons will find it more difficult to get a gun. But a person who wants to be a criminal or an assassin or commit some act of violence always will be able to get a gun. Therefore, it is concluded gun control will not stop the use of guns nor stop violence.

We tested this, and indeed we found by 31 to 44 percent a majority of people say, yes, if you have stiff, tough gun control legislation, it will not necessarily curb violence. But, you see, if you stop right there, and if I might suggest, Mr. Chairman, the candidate who goes out and leaves his dialogue at that and argues on the point of saying gun control is the absolute sine qua non to controlling violence, and then the counterargument is made, he will lose on that. The key is to be able to say something quite different. It is to say, "Look, I recognize there are many causes of violence in this country. We have organized crime. People think that is number one. We have urban guerrillas on our streets. We have a whole host of left wing-right wing radical groups committed to violence.

People say these are more important than gun control. But in third place, and very important, two out of three people say that a contributor to violence, either major or minor, 49 percent say a major contributor, is the "easy availability of guns." So, that the reasonable answer is, look, if we do not try to control guns, if we do not try to make guns more difficult to obtain, then we

run a much higher risk of violence being created and continuing and accelerating.

Therefore, what people say is, not as an absolute, not as a cure-all, but rather as a first basic step, gun control is an essential. I think if a candidate, if I might suggest, made that case in this way, I think even those states, I could name a number of them where you have a high rural population, a very active hunter population, a highly organized gun control lobby, I mean opposition to gun control lobby, I think he could prevail with the people of that state. That is the evidence we have.

Chairman RIBICOFF. In the average state, I know in my own state of Connecticut, I don't know the 50 states, you have to get a license to go hunting. Is that not right?

Mr. HARRIS. Yes.

Chairman RIBICOFF. And there is no objection. You have to get a license to go fishing. You have to get a license to drive an automobile.

Mr. HARRIS. But not necessarily a permit to own a rifle.

Chairman RIBICOFF. That is right. But you do have to get a license. You have to go to some central place to get these licenses.

In the State of Connecticut, it happens to be the town clerk's office. You go to the Motor Vehicle Department to get a license to operate a car. So you do have these restrictions on the complete freedom to do anything you want. Your figures now indicate that as far as the American people are concerned, overwhelmingly, North, South, East, West, urban, suburban, rural, gun owners, non-gun owners, there is an overwhelming number who have no objection to registration?

Mr. HARRIS. That is right.

Chairman RIBICOFF. So, if a candidate pointed this out, and the fact that a law abiding citizen should not be concerned with registering a gun, he would have a positive political issue.

Mr. HARRIS. Absolutely. Especially if he emphasized the need to register handguns. I was struck by this in most of the data I have observed; as you get a growth of handgun ownership, violent crimes increase. It is just like a one to one relationship here. Yet, even among those, and I might say, Mr. Chairman, I pro rated it out here this morning coming down, 17 million American households, close to one in every four, has a handgun in it. That is not used for hunting animals, Mr. Chairman. That is, if anything, used to hunt human beings in some way or to defend against human beings.

Handguns are an anti-human weapon. In some cases merchants, we found businessmen very high in ownership, feel it is necessary to have them to protect themselves. I am not saying they are not justified to have them. But the notion of registering handguns, maybe the most lethal of all these guns, runs higher.

The people seem to have the sense that handguns, I suppose as George Orwell said, are more equal among all guns in terms of their lethal qualities.

Chairman RIBICOFF. In other words, you or any political pollster, could sit down with these figures and build up a scenario for a candidate for public office to use the issue of registration of handguns as a positive vote-getting technique, instead of a negative technique?

Mr. HARRIS. Right.

Mr. Chairman, I do not advise candidates any longer since I write a column for 260 newspapers twice a week. But back when I did advise about 240 candidate, as one who went through all those elections, I would judge the handgun issue to be one where a candidate, leave aside convictions, which should be the prime motivation of the candidate, but leave that aside, just the cold blooded notion of, "Is this a positive or negative issue for a candidate," I would say across American this is an issue that could help a candidate, and the man who gets up and say he is opposed to strong gun control by the Federal Government, I think that candidate in 1976 elections, to put it figuratively, will have his head handed to him by the voters.

Chairman RIBICOFF. What you are saying is that if a candidate for statewide office would have the courage of being positive on this, and people knew where he stood, whether they would agree with him or not they would respect him for his honesty and dedication and he would be riding along with what the overwhelming majority of the people believe?

Mr. HARRIS. That is correct, Mr. Chairman.

Chairman RIBICOFF. It is really strange.



Mr. HARRIS. May I make a suggestion? I do not come here to abuse the people of the Senate or House or people who run for office, but I would say that one of the basic troubles we find and one of the root causes of why leadership, politically in the political area, has fallen from grace precipitously in this country, you cannot get more than 13 percent of the public today who has a high degree of confidence in the people running the Congress or White House—why? As I have studied this, one of the major reasons, I think, behind it is that people get elected or hear about people who did not get elected in the past for a variety of reasons. Once having won on a whole combination of circumstances, I find far too many people in public office, who hold elective office, who will go to their graves swearing by what elected them 10, 15 or 20 years ago. I might suggest, Mr. Chairman, the trouble with leadership is, that which spends 20 years clawing its way to the top and then finds itself 20 years out of date. I think our politics are changing drastically. Those who will point to cases such as Senator Tydings or others who were supposed victims of opposition to gun control, I will go so far this morning as to say, I think we will see in 1976, if some one takes national leadership on this gun control issue, you will see some casualties on the other side, that those who dared to oppose gun control will be casualties as opposed to those who dared to stand up for gun control being casualties.

That is how radically, I think, the American people are changing.

Chairman RIBICOFF. You have just given every candidate a \$15,000 free piece of advice he could use. I think the three of us here have run for office a few times. We have been consistently for gun control in our entire political years.

I think all of us have had the active opposition of the gun lobby, but it has not hurt our political success at the polls. We are very grateful to you, Mr. Harris. This is very significant. The three of us are really dedicated to trying to turn this issue around. Can we do it? I don't know. Every time there is an attempt to try, we are beaten abysmally. We represent a very small minority. And yet we are speaking for the majority of the people.

The only way that I see we can make this turn is to continuously take an issue like this and stay with it because not only is it a correct issue on the basis of principles, but it happens to be politically feasible, too.

Thank you very much, Mr. Harris, for your public service and this poll.

Senator Percy?

Senator PERCY. Mr. Harris, we certainly all appreciate what you have done in this survey and taking this forum to reveal this information to us. Why do you suppose it is that with only 19 percent of people opposing the registration, national registration of guns, that the pro-gun control people have proven to date to be so weak and politically ineffective with respect to moving the Congress to do what such an overwhelming majority of the people apparently want them to do?

Mr. HARRIS. Senator Percy, I would like to suggest that the reason why you have had a minority with, in effect, majority control when it comes to the voting level, is that you have not had very many leaders in this country who have had the courage to stand up against the prevailing wisdom, which in this case is that at your peril, you can afford to advocate gun control. You may vote for it, you may talk quietly about it, but if you get out there really rallying the people, you are suppose to be in the deepest kind of trouble. I suspect from all the evidence we have that if you had a concerted effort on the part of leadership right here in this room, right here in this Congress on Capitol Hill, maybe hopefully across and down Pennsylvania Avenue, from the White House, if you had both of those, I think, political people would be absolutely astounded at the enormous positive public outburst. Why? Because there is an issue which goes deeper than just gun control here. It is this terrible national shame and trauma of violence which has been visited upon us. I do not think any of us were raised to believe that we were just inherently a violent country which warranted this and was dedicated to it and doomed to it. This has seriously distressed people. The reason, as we know now, from the survey we have conducted, we know that the recent attempts on President Ford's life stunned the country. Stunned the country. And they said, "Oh, God, not again. Are we going to have to go through this national shame and grief?" You know, here we are a post-industrial civilization, advanced society in many ways, and in the end we are so primitive that the only way a President can survive is to hide from his people. I do not find, though, leadership making this case. And I don't know why. So I would suggest that the water is not

only wide open, it is rather warm for those who would go into it. Maybe you ought to urge some of your colleagues to join you in it.

Senator PERCY. I would like to advance the theory as to why more leaders do not step up to the line and, as you say, bite the bullet on this issue: because of the realistic knowledge that we have that there are certain one issue voters in this country. They will feel so strongly about one gut issue that it doesn't matter what you do on all your other voting record. You can sit there and tell them about the 17,000 votes you have cast, and ask if they are going to be so narrow as to judge you on just that one vote and they are going to turn around and say "yes". I point out the Highway Trust Fund and the highway lobby. When I came out against the highway lobby to abolish the Trust Fund, and I am still for doing it, I began to feel a little pressure. And there is the issue of the right to life. They are very strong and very militant.

Mr. HARRIS. Right.

Senator PERCY. There are Zionists, and I think we all know that there are certain issues, one issue voters, I don't care how humanitarian you are on a thousand issues, you either vote right or wrong on the issue of Israel or you're dead. And that holds true.

We have not seen in gun control, on the pro gun control side, a strong assertion. They have not made it feel strong. But the gun control lobby on the other side has made on one issue. They can be small, but it can be the issue. Would you agree that there are one-issue voters?

Mr. HARRIS. Oh, yes. But I think the way to treat that in order not to be victimized by these one-issue causes. I think you have to make it plain and clear to the majority of the voters that in your taking the stand, you have run the risk of being run out of office, not by a majority, but by people who say "This is the only issue on which I want to vote." And then put it up to the rest of the voters, not once, but over and over again.

I know back in my former life working campaigns, I worked with Senator Ribicoff back in 1960, with President Kennedy. I remember saying, "You have to say these things over and over and over again. When you never want to say them again and when reporters stuff their ears with cotton, you have to say them over again." If you said over and over again, are you going to let me be victimized by a minority here who oppose gun control and make that the only issue, or are you going to vote your convictions on this? That is the way I think you make it. But if you leave the forum, so to speak, to one side and one set of voices, and they do all the organizing, and they have the dialogue going one way, then indeed they can be very effective.

Senator PERCY. Do you have any information, Mr. Harris, as to how many people on either side of the issue feel strongly enough about it to really write their Senator or their Congressman? Could you tell us what effect that might have if the minority feels strongly and right and stands up in public sessions and constantly pounds away, and the majority are silent about it? What is the Congressperson in a swing district likely to do then on that issue?

Mr. HARRIS. I think, again, Senator, if I might suggest, this business of how much mail you get is hardly a function of what people feel deeply without much prodding. But to a larger degree, it is also how the focus of issues is made. In other words, and I cannot do the committee's business or even suggest it, but if what Senator Ribicoff suggested, the Chairman suggested, that let's say you three, for example, stand as a very lonely minority here, I think if you made it clear to people that you were a lonely minority in the face of this overwhelming public support, and that for some strange reason forces have either gotten to or persuaded a majority of the Senate not to vote for stiff gun control legislation, I think you would find people's sense of moral outrage aroused and their sense of justice somewhat violated.

This is a very delicate issue now following Watergate where people feel that justice is meted out rather selectively in this country. And, again, if they feel the public will is thwarted, not that the public is right automatically, or that what majority feels should be legislated automatically, but the public, having lived with this issue for well over a decade now, assassinations and growing violence, if they feel their will is being thwarted by some contrivance of a minority, I think you will find quite a flood of letters coming to not only yourselves, but to all kinds of Congressmen and Senators.

Senator PERCY. To the urban dweller, crime is one of the absolutely top issues in his mind. Across the country, a major issue is ever larger government, more regulation, more control. How do most people view gun control? Is



it an issue of ever encroaching government against individual rights, or is it an issue of crime, and law and order, and a means of controlling crime?

Mr. HARRIS. Let me pick you up on something earlier. One of the phenomena that we found this past year, it used to be five or six years ago that big cities were used as the central, or people in big cities felt more acutely about crime, felt crime was increasing. One of the phenomena we have observed over the past two or three years, and quite a shift, and the official crime statistics bear out what the people have told us, is that, believe it or not, the most rapidly rising crime rate in the country and where people feel most apprehensive, of changes to become more apprehensive, about crime and safety and fear of violence, believe it or not, is in the South. And where in the South? Not in the big cities in the South, but rather in the small towns of the South. So, what we have had is this whole bit about crime, violence, worry over safety being a northern big city phenomenon has now penetrated to just about every part of the country with a real rise in apprehension taking place in smaller communities, both in the middle West and the South, but more particularly in the South.

So, I think the notion that this is something which is peculiarly a big city problem, you get a lot of that on a lot of other issues, such as the plight of New York and others these days, we find is a national issue. It is one, if you take gun control by itself, it is not the top priority in curbing violence, I hope I made that clear, but it is viewed as a lot more important than the whole series of other things people use. They will say, "Well, if you want to avoid violence, tell the media not to report it as much." Well, media reporting is, what, 35 percent think that is the major cause of it. It is not insubstantial, but it is way down below what is viewed, for example, organized crime, 75 percent view it as the major cause.

I think it sorts out where gun control comes in sort of the pecking order of importance. I would say it is not the most important issue in terms of curbing violence, but it certainly ranks among the major steps that could be taken.

I would say this, if I could speak on behalf of the public survey: If you do not show soon, it is very late in the day, and you do not soon show some visible action which this committee, the Senate, the Congress, this government, this Federal Government takes toward doing something about violence, then all you will do is feed this sense of lack of confidence, sense of impotence, cynicism. What people will say, they have not yet, but they will say it, certainly, then, the people in power must be either benefitting themselves personally, or for some strange reason they are in cahoots with crooks, criminals and thieves or people who perpetrate crime because what other reason can there be for them not to take action on this issue of violence. And gun controls is an important part of that.

Senator PERCY. The colloquy that you and Senator Ribicoff had would lead me to believe that the key message that can be gained from your testimony today is that it is a myth that a politician will be destroyed if he takes a strong position on this. But it is up to those that are pro gun control to make their voices heard, is that correct?

Mr. HARRIS. Absolutely.

Senator PERCY. Just to clarify your own survey, you gave the percentage of people who own guns in each region of the country. Do you have any idea how many in each region own handguns?

Mr. HARRIS. We have that and I can furnish that to the committee.

Senator PERCY. I think we would be interested in that. Also, you have shown an overwhelming ratio of people who would favor national registration of guns. Do you have any data that would give us information as to what proportion of our American citizenry would actually favor the banning of possession of a handgun first in a high crime area, and then nationwide?

Mr. HARRIS. Senator, I am sorry to say that I did not put this in our survey. I will be delighted the next time we go out to get the answer to that.

Senator PERCY. I think that is something Senator Javits and I, all three of us, would be particularly interested in. We put legislation in that would directly relate to that. It would help us to know how much support we have.

Senator RIBICOFF. When you get those figures, would you please furnish them to our committee?

Mr. HARRIS. I will, Mr. Chairman.

Senator PERCY. Thank you very much indeed, Mr. Harris, we appreciate it.

Senator RIBICOFF. Senator Javits.

Senator JAVITS. Mr. Harris, as author of bills in this field and working with my colleagues who are here, I am very impressed with your statement. You're very, very helpful in what you are doing.

One thing strikes me very importantly in the survey. I would like to know whether you feel the same way. That is the relationship of the present figures with previous figures. There appears to be mounting support now. Take these two factors for example. You say that on the basic proposition that a federal law which would control the sale of guns such as making all persons register all gun purchases no matter where the purchases are made, the public would favor such laws by 73 to 24. The latest result marks an increase from a comparable 66 to 28 who favored such legislation back in 1967. Do you consider that that represents some new awareness, that proportion of differences, even though the time is about eight years?

Mr. HARRIS. Senator, the sad fact that I have to report, I say sad in the sense that we find two things rising simultaneously. We find the ownership of guns rising, from 41 to 47 percent over, let's say, the last seven years. We also find the number of people worried about violence rising. At the same time, we find the number who favor the passage of stiff gun control legislation rising.

Yet strangely, we do not find gun control legislation being passed. In other words, it is almost as though with violence rising, more people are arming themselves to the teeth in self-defense in the absence of any action by their government.

Senator JAVITS. Doesn't that tie in with the finding that they are kind of giving up on government?

Mr. HARRIS. I would say that people, and I said at the outset, 95 out of 100 people have not given up on the system. We watch that closely because I think people can only go through so much disenchantment before we begin to get rising numbers of people who say maybe the system isn't that good. Up to now, they have had remarkable patience. But I would say if you get in action, on something like gun control and a whole host of other issues, I can well see people saying "I have got to depend on myself because I cannot rely on my government."

Senator JAVITS. There could be an abrupt shift, therefore, in faith in the system should that persist?

Mr. HARRIS. There could very well. We have found without doubt in almost every area, people are now more confident about themselves as people than they are about government. I will give you an analogy out of air and water pollution. We have asked this every year out of the last four and it has not changed a great deal. We asked them, "Who do you think would be most effective in enforcing air and water pollution. First, local government. Two to one, negative. State government, three to two negative. Federal government, four to three negative. Then we say, Citizens groups of people who would point out violations to the government. You get two to one they think this would be effective. People trust themselves much more than they do government.

But I think, Senator, if I might suggest, as Shakespeare said, "The fault dear Brutus, is not with the Gods, but with ourselves." I think the government ought to look to itself on this.

Senator JAVITS. I thoroughly agree with that. Would you say, therefore, that we need as effective a private citizens organization as the National Rifle Association, which seems to be the principal culprit in holding off gun legislation, but has not been held publicly accountable for it?

Mr. HARRIS. Given these numbers, I think I can say a vast majority of the public would be highly relieved and vastly pleased and highly contributive to an organization of citizens dedicated to gun control.

Senator JAVITS. Of course, Mr. Eisenhower is going to follow you. He is prominently connected with at least the beginning of such an effort which is long overdue. It is really very late in coming.

The other point I would like to establish with you concerns registration. The total in favor of registration with the federal authorities is even higher than on the general proposition of gun control, is that not so?

Mr. HARRIS. Handguns particularly, yes.

Senator JAVITS. There, too, would you say you have a sensational rise from national attitudes reported only 3 years ago in 1971?

Mr. HARRIS. Yes, that is a very precipitous rise, 11 point rise in four years is a very substantial rise. I think what it is, people are highly aware of the

fact that, as I think I said earlier, but I will repeat it, that handguns are basically an anti-human weapon. And, therefore, most of the lethal results from the use of guns are likely to occur from handguns, and I think people make a priority here. What is significant though, and I think again this survey closes a loop on one of the arguments I have heard made, to say, "Well, why should you then hinder and impair the freedom of individuals to own in an unfettered way rifle for purely sports purposes in the name of handguns," you see. Well, we find that even rifle owners, the majority of rifle owners are perfectly willing to say, I should not get a permit from federal or local authorities before I can get a rifle, which means in effect, you have got a record of all those. If a friend sells a rifle or handgun to someone else, or worse yet some kind of, as I suggested, underground exists, 23 percent say some sort of mysterious channels of getting them, they realize that that is a violation of a law. You haven't registered it. Or if you haven't received a permit, I think that becomes quite a deterrent here.

Senator JAVITS. That is the high-water mark of public approval for the registration of handguns with Federal authority?

Mr. HARRIS. Yes.

Senator JAVITS. That has shown the most sensational rise that is the biggest majority?

Mr. HARRIS. Yes.

Senator JAVITS. Finally, I found the figures on page four very interesting. They relate to the sources of guns, and especially, where people acquire them. The analysis of this would indicate that registration would go a long way toward dealing with the lack of identification of those who use handguns for criminal purposes, because it certainly would unearth a material part of that mysterious, what you call mysterious 23 percent from miscellaneous sources including, I assume, stealing them.

Mr. HARRIS. Senator, the thing that does not impress me about that number, is this I cannot prove, but it is strongly suggested, is if anyone comes into a community, almost any community in America, and goes to the right street corner, or wherever, where he kind of sniffs out, this is where he might find out about it, and asks where can I get a gun, apparently there is no trouble at all in finding a place, any hour of the day or night, where he can get a gun, probably a Saturday night special.

It is interesting to me, because there is no reason for people who have got guns through some rather, some nefarious, or through a questionable source, to say they could have said they got it at a sporting goods store, but another private source, there is a kind of open currency that exists around the country, and that is rather staggering.

Senator RIBICOFF. Also you state that 43 percent bought their guns at sporting goods stores, 15 percent at hardware stores, and 20 percent from a friend. That accounts for 84 percent of it. Let's see—

Mr. HARRIS. Senator, the reason they add to more than 100 is we found the average person that own a gun, they own more than one, they own 1.3.

Senator RIBICOFF. I am looking at this, if you have 43, that would be 78 percent.

Mr. HARRIS. Yes.

Senator RIBICOFF. Even with the most primitive administration of this registration law, that would certainly be enough to make a very real and very material change in the situation.

Mr. HARRIS. Senator, as I understand, it is not illegal today for a lot of different sources to sell guns, is it?

Senator RIBICOFF. Exactly. It is not illegal, nor is it illegal to transfer them and to give no notice to anybody.

Thank you very much. We are very grateful to you, Mr. Harris.

Mr. HARRIS. Thank you.

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STATEMENT OF MILTON S. EISENHOWER, PRESIDENT EMERITUS OF THE JOHNS HOPKINS UNIVERSITY AND FORMER CHAIRMAN OF THE PRESIDENT'S COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE, BEFORE THE U.S. SENATE COMMITTEE ON GOVERNMENT OPERATIONS AT HEARINGS ON PRESIDENTIAL PROTECTION, OCT. 24, 1975

Dr. EISENHOWER. Mr. Chairman and members of the Senate Committee on Government Operations:



I am Milton S. Eisenhower, President Emeritus of The Johns Hopkins University and former Chairman of the President's Commission on the Causes and Prevention of Violence. I am here in response to an invitation from a member of this distinguished committee and am happy to testify, hoping that what I say may be moderately helpful to you in your important deliberations.

I apologize for not having given you advance copies of my statement, but I completed it on short notice. I shall leave copies with the Committee staff.

For 18 months, from June 1968 to December 1969, the Commission of 13 members which I headed, had the assistance of more than two hundred lawyers, criminologists, sociologists, psychiatrists, law-enforcement officers and other specialists who studied objectively and with deep concern the growing tide of violence in the American society.

In the decade ending in 1968, the rate of violent crime in this country increased 100 percent, and it has increased each year since then. Fear dominates our cities. Fear is driving many who can afford to do so to flee to the suburbs which are becoming armed camps and electronic sanctuaries. The tax bases of cities are declining, tax revenues in many fail to support adequate public services, bankruptcy threatens one city, and the ability to govern cities successfully is brought into question.

The Violence Commission solemnly declared its conviction that crime is threatening the very character of American life and that we now need to be as concerned by internal dangers to our free society as by any possible combination of external threats.

The Commission submitted to the President a report which contained 81 recommendations, only two of which were not unanimously adopted by a diverse group of liberals, conservatives, Republicans, Democrats, independents, lawyers, educators, judges, and scholars from widely scattered geographic areas. When we first met, our views were divergent. That we achieved unanimous agreement on all but two recommendations was due to the fact that for 18 months we studied the frightening facts and soberly reasoned together about causes and solutions.

Unfortunately, our report was never presented to the Congress by the President. It gathered dust, as have so many reports of Presidential commissions.

A brief summary is obviously inadequate and possibly misleading, but I venture to compress our findings and suggestions into three general areas.

*First*, we urged a gradual expansion and improvement in the quality of all phases of the criminal justice system.

Our carefully compiled estimate indicated that in 1968 there were more than 9 million serious crimes committed in the United States, including homicides, rapes, robberies, burglaries, larcenies, auto thefts, and aggravated assaults, about half of which were reported to the police and the Federal Bureau of Investigation. Of the 9 million crimes, 12 percent resulted in arrests of suspects, 6 percent in convictions or confessions, often at reduced charges, and only 1.5 percent in incarcerations.

In the 7 years since then, most crimes in the categories I have mentioned increased substantially each year, but the percentages of arrests, convictions, and incarcerations did not change appreciably. As the distinguished lawyer who served as our executive director said: The criminal justice system does not detect, does not convict, and does not correct.

We recommended a gradual doubling of Federal, State and local investments in the criminal justice system, including more and better trained police, more judges, and more and improved jails and prisons.

*Second*, we recommended a massive and persistent attack on the social causes of crime. We are now an urbanized society, with more than 70 percent of our people living in cities or their suburbs. The rate of crime in large cities is seven times that of towns under 10,000 population, eight times that of rural areas.

In the cities, violent crimes are overwhelmingly committed by males. They are concentrated especially among male youths between the ages of 15 and 24, but in a single decade young males in the 10 to 14 age group threatened to catch up with a 300-percent increase in assaults and a 200-percent increase in robberies.

Violent crimes in the cities are committed by individuals in the lower end of the occupational scale. It is not surprising, therefore, that violent crimes stem disproportionately from the ghetto slums where most black residents live. But I emphasize that all research evidence indicates that blacks inherently are no

more criminogenic than whites. Environmental conditions, lower employment rates, racial concentrations, broken homes, discrimination, inferior education, and a host of other factors—not race—are responsible for the condition I have mentioned.

The victims of violence in the cities normally have the same characteristics as the offenders, save for robberies. Robbery victims are usually older whites.

Usually the violent crime of homicide is an act of passion among family members, friends, and acquaintances.

About 60 percent of all serious crimes are committed by repeaters, a fact of crucial importance in considering the question of gun control.

To overcome the social causes of violence will require manifold actions over a long period of years and at high cost. And it will also take time and considerable cost to expand and improve the criminal justice system.

But the third area of the Commission's study, to which I now turn, can be started quickly, and the cost would be reasonable.

The concealable handgun is the favorite weapon of first offenders and recidivists alike.

There are at least 40 million concealable handguns in the United States and the number is increasing about 3 million each year. Two out of every three homicides are committed with handguns. About 25 of each 100 aggravated assaults are committed with handguns. Two out of three armed robberies are committed with handguns. The fatality rate of handgun victims is five times as great as those attacked with switch-blade knives, the second most lethal weapon used by criminals.

Our Commission recommended and I earnestly urge this committee to foster legislation which will prohibit the manufacture, importation, distribution, and sale of concealable handguns; that the possession of handguns be made illegal, save for especially excepted groups; that the Federal Government pay a reasonable price for each gun surrendered; that only police, military personnel, possibly bank guards, and a relatively few others who could make a convincing case for ownership be granted licenses for possession of handguns, and that licensed individuals be prohibited from giving, selling, or otherwise transferring such guns to others.

The Commission concluded that the best method of accomplishing this is for a comprehensive Federal law to be enacted, with definitions, standards for obtaining licenses, and penalties for violations set forth in detail, the Federal law to become effective in those States which do not within a stated period, say 3 years, enact legislation which meets the requirements and standards of the Federal Act.

Though more than 70 percent of the American people in poll after poll over a period of 15 years have expressed deep concern and have favored various types of gun control, powerful forces are working against the adoption of essential legislation. I have personally been bombarded with hysterical and occasionally threatening letters since the Commission report was published late in 1969.

Citizens in all states are constantly bombarded with propaganda which says that gun ownership is guaranteed by the Constitution. The people of this country should be told time and time again that the Supreme Court long ago ruled that the relevant provision in the Constitution applies to the militia, not to individual gun possession.

The propagandists say, and many believe, that the government does not have the authority to require a private citizen to surrender a handgun whose only purpose is to wound or kill. Those who circulate this falsehood seemingly approve police raids in private homes to confiscate drugs, from marihuana to heroin, and they ignore favorable court rulings in States which limit private ownership of handguns.

Many persons mistakenly but honestly believe that in our crime-ridden society a gun in the home is essential for family protection. Less than 3 percent of killings by robbers occur in private homes, and the best evidence available indicates that only two-tenths of 1 percent of home robberies result in firearm injuries to intruders. Yet these guns in the home are responsible for from 50 to 80 percent of homicides in families, and among friends and acquaintances.

Fear of armed intrusion is genuine and understandable. I urge that the Congress fund research for the development of improved nonlethal weapons which would incapacitate intruders for sufficient time for police to be called and

make arrests. Most home owners would, I believe, gratefully substitute nonlethal weapons for dangerous handguns.

The propagandists say that guns are not the offenders in crime—people are. Obviously guns do not fire themselves. People do. Take away the guns and violent crimes will be reduced. Psychiatrists agree that the availability of a gun in a moment of passion is an incitement to murder.

Nationwide propaganda repeats ad nauseam that if concealable handguns become illegal, honest citizens will surrender them, but criminals and potential criminals will not. This is no doubt true, but two facts must be considered here. Since a high percentage of homicides are committed by otherwise honest citizens in moments of anger, killings would automatically decline. Secondly, since a high percentage of armed robberies, assaults, rapes, and commercially-oriented killings are committed by recidivists, most of whom are known to the police, and it is legal for law enforcement officers to frisk suspects, many persons illegally carrying handguns would be apprehended, convicted, and incarcerated.

Here, again, intensive research would help. We should develop more sophisticated equipment which will enable the police to detect the possession of concealable handguns on the bodies of unlicensed persons.

Gradually the number of handguns in the hands of recidivists and potential criminals would be reduced.

It is well known that the rate of violent crime in the United States is from five to as much as 90 times higher than the rates in other civilized, developed countries. Other countries have gun laws. Concealable handguns in the United States constitute the major cause of the horrifying comparison I have cited.

No one would be so rash as to argue that effective legislation to prohibit handguns will eliminate all crime. But the reduction in crime would be substantial, perhaps spectacular. If we did no more than return to the rate of violent crimes that existed in 1960 we could claim a great achievement.

Nothing I have said applies to shotguns and rifles. The concealable handgun is the enemy of our society, not sporting weapons.

Mr. Chairman, when I was requested to be here today, it was suggested that I comment very briefly on S. 2153, S. 2152, and S. 2166.

S. 2153 would make it illegal for unlicensed persons in cities of higher than average crime rates to possess handguns. Residents outside the high-crime cities could own and carry handguns unless State law prohibited this. In cities such as Baltimore, Chicago, Newark, Atlanta, and many others, residents could not legally possess handguns until the crime rate was reduced below national and other averages stated in the bill. My judgment is that this would accomplish little and might be detrimental, for it might lull citizens into believing that the basic problem was under successful attack. Today several States have laws which are similar to what I have proposed. These laws are only marginally successful, if at all, because of the availability of handguns in other States. The problem under S. 2153 would be even more acute, for residents of the cities would only have to go outside the city limits to obtain handguns. I suggest that a study of the Sullivan Act in New York and its ineffectiveness for the reason I have stated would be convincing to this committee. In any event, we should be concerned not only with bringing crime in cities below the national average, but in reducing drastically the averages in all 50 States. So I am convinced that only fairly uniform laws in all States, with the Federal Act becoming operative in those States that failed to take appropriate action, have a chance of achieving a desirable result.

S. 2152 would establish a Fair Arms Safety and Abuse Control Administration in the Department of Justice and transfer to it the duties of the Secretary of the Treasury under the Gun Control Act of 1968, as well as other relevant Federal activities, and empower the Attorney General to develop with state and local authorities concentrated attacks on violators of existing gun laws. This seems desirable, but it would be effective in reducing handgun crimes only after the enactment of Federal legislation of the type the Violence Commission recommended.

S. 2166 is intended to assist the Secret Service in protecting the President of the United States and certain other public officials by making available on a temporary basis to the Secret Service equipment and services from other public agencies—equipment that would help the Secret Service in fulfilling its serious obligations. This, too, seems desirable, but it will not reduce appreciably the danger of assassinations. The President and other public persons



attractive to assassin-prone individuals should greatly reduce their exposure in situations where they can be shot, at least until the handgun problem has been brought under control. I applaud the desire of the President and other leaders to explain truthfully and honestly what people need to know and to obtain citizen views on critical current problems. But a leader traveling extensively and making many public appearances will reach only a small fraction of the American people. There are other ways for leaders to demonstrate their democratic credentials and to communicate with the people, especially in this day of mass communication. The assassination of our President or other high official would do this nation far more harm than any good accomplished by excessive public exposure.

Finally, I wish to say that I have been deeply impressed by the despair evident in the testimony of police chiefs and police commissioners who have appeared before this committee. I was especially impressed by a statement made by the Police Commissioner of Boston. He found it appalling that we should be deeply concerned, as of course we should, about international disarmament as one vital step toward world peace, but seemingly indifferent to national handgun disarmament which could contribute mightily to peace at home. I repeat: International threats to our society, including the threat of crime, are greater than any posed from abroad. Abraham Lincoln said this in different words in January, 1838; it is tragically true in 1975.

Thank you very much.

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[Testimony continued from p. 790.]

Senator BAYH. I appreciate both of your being here. I consider you not only colleagues, but friends. We have had a little difference of opinion about jurisdiction. I must say—so that the record will be straight—that, I think if you will look at the record, the stumbling block has not been this subcommittee nor the Judiciary Committee. The Senator from Nebraska and I have a difference of opinion on this matter. In this, I am closer to you than him.

#### SENATE PASSED LEGISLATION—HOUSE DID NOT ACT

This committee passed legislation, the Senate passed legislation, but the House would not pass legislation. I think—and we have had the polls—there is no greater desire to deal with this problem now, in a public perspective, than there was when we held hearings. We have heard from the chiefs of police; we had the same testimony.

It gets right down to pragmatics; what our colleagues in the Senate are going to buy. Last time we put that issue, we got 7 votes on one amendment and 11 on the other. So perhaps, together, we ought to try to get legislation passed that is going to make a contribution.

Earlier in your testimony, before the Committee on Government Operations which I will now enter into the record [see Exhibit 18], you said that our Saturday Night Special bill was an illusion. But, according to the experts that we have heard, it would cover 75 percent of the firearms that are in production today. And, contrary to the assessment made in the statement, it would have covered both of the Fromme and the Moore weapons which were directed at the President. We are not just talking about cheap weapons; we are also talking about other types of concealable weapons.

What I believe is that is we—those of us, here in good conscience —are desirous of implementing legislation then we will have to get together and see what we can get passed. This business of changing jurisdictions is really not going to deal with the issue. And, we are not going to get anything passed unless we get the votes on the floor of the Senate—and that is not an easy job.

The reason I have not pursued this issue is because I have been waiting for our friends in the House to see what they can resolve. We have to stand up and be counted on this issue. And, now that the House is beginning to move, we have a better chance of passing legislation. But if we create illusions that we are going to be able to get the type of legislation that you gentlemen are pursuing, we are talking about a different dimension than I sense by talking to our colleagues. Perhaps you may have different lines of communication.

[EXHIBIT No. 18]

[From the Congressional Record, Oct. 21, 1975]

EXCERPTS FROM THE TESTIMONY OF SENATOR JAVITS, COMMITTEE ON GOVERNMENT  
OPERATIONS AT HEARINGS ON PRESIDENTIAL PROTECTION

\* \* \* \* \*

Chairman RIBICOFF. In other words, your feeling is that the fight ought to continue even if you go down to defeat until you can turn public opinion?

Mr. DIGRAZIA. Senator, of the major city chiefs of this country, for a long time there were only two people that stood up to be counted; Peter Pitchess and Pat Murphy. They were the only two that stood for total banning of handguns. We now have a majority that are in favor of total banning of handguns.

Chairman RIBICOFF. In other words, the majority of the chiefs of police?

Mr. DIGRAZIA. The major city chiefs, yes, sir.

Mr. PITCHESS. Earlier a question was asked about rural communities. I think Senator Javits brought that up. The most dramatic and significant increase in murders over the past three years, and I am sure the Uniform Crime Reports will support that, the most significant percentage-wise increase in murders have occurred in rural areas of our nation, which means, Senator, the problem is not one of the urban areas alone. It has gone out from the urban areas. The suburban areas have had it for some time. It has gone into the very rural areas, the areas on Nevada and Wyoming and Utah and Idaho. I know it is difficult to sell it because I am from the West.

Now, I have a question. Since I am a little old cow county sheriff, perhaps I don't understand your democratic processes. You agreed that you believe that the majority of people in this nation want some severe control of the handguns, and yet you say you can't persuade the rest of your colleagues in Congress. What can we do to help you persuade them?

Senator JAVITS. May I give you an example which Mr. Conboy, my assistant, was just giving me?

In 1972 Senator Philip Hart brought up exactly the same bill which you are talking about, a complete ban in the possession of handguns, as an amendment to the Bayh bill. And all that letter did when it passed the Senate was to ban handguns on very narrow criteria, that is, the Saturday night special, and obviously it was really meaningless, but even that didn't get anywhere in the House. They didn't even consider it.

But be that as it may, Senator Hart brought this up, the very thing you are for. He got eight votes in the Senate. I was one of them, and Senator Ribicoff was another.

Eight votes out of 100.

Mr. PITCHESS. Then we are wasting our time educating you. We should be educating some other Senators.

Chairman RIBICOFF. That is very important. It becomes important for you to speak up. I know the influence of chiefs of police. You do a big public relations job. You speak before Chambers of Commerce, Rotary Clubs, League of Women Voters, and PTA's. They ask you about crime. And I think you can make the plea for handgun control, because it has to come from the grass roots. There is no question that every poll that has been taken by the most renowned pollsters, Harris and Gallup, have indicated that the public overwhelmingly are for this, but unfortunately most of our colleagues and presidential candidate succumb to the pressure of the gun lobby.

It becomes very important to get across that being for gun control means votes instead of losing votes, because that is what the people want. When the



people are talking about crime, and the increase of crime, I am willing to wager that the most criticism that you get for the high incidence of crime in your city comes from people who are against handgun control, and you ought to throw it right into their teeth when they throw it at you.

Mr. PITCHESS. Senator, let me cite a political situation that is rather personal, and I don't mean to be immodest about it.

As DiGrazia told you, Pat Murphy and I were the first two law enforcement officers to publicly take this stand about banning handguns. Last June I ran for reelection in a county that is a metropolitan area, it's almost as bad as New York or Chicago or Boston or whatever you want to say. We have a population of seven million. I happen to be a Republican and my county is maybe two and a half to one Democratic. I had a tremendous opposition from this gun lobby, people who vowed not only to defeat me but threatened otherwise. And I received 79 percent of the vote.

All I use that for it to tell you that I believe that the people basically will support the people who stand up and say this, and so please tell your colleagues in the Senate that or fear of violating a Federal law. At the same time, I do not think a law or laws to take away—whether to buy or confiscate all the guns held by individuals, is workable as I feel it is totally unacceptable to our citizens.

Finally, I mentioned above, the lack of Court "followthrough"—This I blame for the failure of our system, to provide a "deterrent" to crime—gun toting included. Serious thought must be given to some mandatory sentences—for one—crimes committed with a gun such as robbery, murder, rape. Let's take away the gun and destroy it in the lesser category of unlawfully carrying. Forfeiture of the "right to bail" when charged with the commission of a Felony, committed while out on bail for a previous felony. Eliminate the granting of probated sentences to persons previously convicted of a felony.

Experience is showing us that the repeat offender is causing 60% or more of our crime. Therefore, rules to guarantee taking the repeater out of society is going to be the only certain way to effectively overcome the problem. Thank you.

Chairman RIBICOFF. Thank you, very much.

Frankly, your statements have been so powerful and so important that almost all the questions have been answered. But I would like to have some discussion with you gentlemen to have the record complete.

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Senator JAVITS. Senator Bayh, I want to respond to that.

You have constantly got to stir this up, and it will be noted that, notwithstanding the original discussion I had with you, I did divide the bill, with Senator Percy's cooperation, and the bill relating to your jurisdiction is here. The only thing that is before us is a bill clearly within our jurisdiction, which would be a transfer of the administration of Federal firearms control. And I mean that very sincerely and very seriously, and I do not want to credit you with any less faith than I.

Senator BAYH. I am not responding out of pique. I am suggesting that departmental reorganization will not solve this problem.

Senator JAVITS. I wanted to point out one thing, and then I shall be through.

You cannot trade down in this. We have got to trade up. We have got to count to some extent upon being able to muster public opinion and upon our own sense of advocacy.

Now, you can see from the nature of this bill, I do not believe you can trade for something that is really out of the ball park, but I do not believe that we can simply be confined to, and content with, the 7 and the 11 votes. I think we have got to assume that we have got to rally some majority if we are to succeed at all for something that really has some strength and some vigor.

## MUST AROUSE NATIONAL CONSCIENCE

And I thoroughly pledge my cooperation to you, as I am sure Senator Percy will, in that endeavor. We do not care whose name is on the bill, but our areas and others throughout the Nation are really suffering, bleeding, and dying. So we are doing our utmost to arouse the national conscience.

Senator BAYH. I believe we all have a common purpose in these bills. We did ask the Attorney General his opinion when he testified<sup>1</sup> relative to this transfer of jurisdiction, in which he frankly thought the present jurisdiction was the proper place.

I hope we can get a good bill. I have been castigated by the National Rifle Association and others for what I have tried to do in this area—but that is neither here nor there. Let us work together to try to get the best bill we can.

Senator BAYH. Senator Percy, will you proceed?

Senator PERCY. Senator Bayh, I ask unanimous consent that the full text of my testimony be incorporated into the record.<sup>2</sup>

Senator BAYH. It will be made a matter of the record.

#### STATEMENT OF HON. CHARLES H. PERCY, U.S. SENATOR FROM THE STATE OF ILLINOIS

Senator PERCY. I would like to simply say that I have not been in the lead at all in the matter of gun control. As a matter of fact, I think Senator Hruska would remember, the last time I spoke on this subject extensively on the floor was to get the provision repealed that required the registration of shotgun shells. And I discovered, in looking at the tremendous amount of paperwork involved, the long lines and delays, that millions of pieces of paper went over to the Treasury Department, and when I inquired as to who had looked at them, and what had they accomplished as a result of it, not one single bureaucrat had ever looked at any one of those records in the year or two that we had been piling them up over there. So I asked for repeal of it. It seemed a needless expense, and the State of Illinois is not unlike—many areas of it—not unlike Nebraska. People are very concerned in our downstate area. I would say that there is a strong body of support that sees no reason why they should be lumped together with a large, urban, crime-infested area.

#### URBAN PROBLEMS DIFFER FROM RURAL

So, I have tried to look at it as a Senator that has not taken a major role in this before. But I found my own thinking evolving and changing, as I saw in the county of Cook a situation far different. It is like a different country, almost, when you look at the difference of crime and violence and the quality of life in that city, as against virtually any other area in my own State. And I think the downstate areas are very close in the quality of life, similar to those areas in Nebraska and so forth that do not share the same kind of problem.

<sup>1</sup> See p. 530, hearing of July 22, 1975.

<sup>2</sup> See p. 817.

So, I have tried to address myself to this issue by going over and talking to the Attorney General, who certainly knows the city of Chicago well; went over to Senator Kennedy and Senator Stevenson, and spent a good hour and a half talking when he first came into office about his philosophy in this area, and what could be done to find a way to legislatively effectively deal with this problem in such a way that would take into account the feelings and attitudes of a very large part of our country, as against the strong feelings that exist in urban areas that something must be done to remove the incidence of crime and the incidence of accidents that occur at such an alarming rate in the urban areas.

So that S. 2153, which I have been privileged to work on with Senator Javits, and our two staffs have worked closely together because we have common problems and a common goal; to find the minimum controls necessary to produce an effective anticrime program, because what we have passed and adopted in the past has not really proven effective. We looked at the fact that handguns are used in 53 percent of all murders in the United States, and that 80 percent of all firearms—handgun homicides tripled from 1966 through 1973.

Thus, our bill puts controls only on handguns. It does not touch any other type of gun. Certainly, types of handguns loosely called "Saturday Night Specials" are used more than others in crime, and are of absolutely no use as sporting instruments or collectors' items. Generally, they are small weapons of light construction and low cost.

Thus, our bill bans the ownership of such handguns as they are specifically defined by the Attorney General. We give him the prerogative of defining what we mean by that type of weapon.

#### RELATION BETWEEN FIREARM OWNERSHIP AND CRIME

A direct statistical correlation exists between firearm ownership in the various regions of the country, and firearm use in crime. Where firearm ownership is highest, firearm homicides and firearm assaults are highest. Thus, our bill directs its strongest controls—a temporary ban on all handgun ownership—to those areas where violent crime is the highest.

Finally, a majority of the criminals who use handguns in committing crimes are repeat offenders. Thus, our bill prohibits the sale of handguns to convicted felons, and provides a 10-day waiting period to allow the existence of any prior conviction to be determined.

S. 2153 is an anticrime measure. It does not interfere with the lawful use or ownership of guns, other than where statistics prove that a significant anticrime purpose would be served. The Government Operations Committee recently held 3 days of hearings on Presidential protection and firearms control. We are anxious to share the benefit of those hearings with this subcommittee.

I will make note of what I believe to be some of the more significant and compelling comments presented at these hearings that will not duplicate what Senator Javits has already reported on. The five chiefs of police provided significant testimony. I would really



urge that anyone working in this field read every bit of that testimony. It was extraordinarily good.

According to the testimony, 75 percent of all handgun murders are committed as a result of an argument or other dispute between spouses, friends, or acquaintances. If a handgun were not readily available, a major proportion of these deaths would not occur. Even if another weapon, such as a knife, were used, studies show that a gun is five times more lethal than a knife; and I cannot help but recall, when I first came to Washington, a few blocks from my home, two Marine guards in full dress, coming from an exercise, were shot right in a restaurant simply because of the availability of a gun by their assailants in their car after they got into an argument. They would not have taken it on, gone in and then murdered them in cold blood if they had not happened to have a gun in their car.

This causal relationship is also present in cases where the motive is other than passion or anger, such as robbery. The police chiefs of Atlanta, Boston, and Newark cited the easy availability of handguns as a major causative factor in the rapidly-increasing rate of juvenile crime. The depersonalized nature of the handgun, and its easy concealability, give this would-be juvenile offender an increased sense of power and boldness.

We both spent a great deal of time in the city, in cities where we know, when a teacher walks into that classroom armed with a piece of chalk and an eraser, she may be sitting looking at a class where four or five of those young 13-, 14-, and 15-year olds may have a \$15 to \$25 handgun in their pocket. And what it does to those young people in giving them a sense of importance and being in a depressed culture, in a deprived community, is just atrocious.

#### SCHOOLYARD FIGHTS ENDS WITH KILLING

And it does not just happen in the city. I was out in a suburban area of Chicago 2 weeks ago, where the superintendent of the school told me two 16-year-olds got in fight in their schoolyard, much as the fights I engaged in. But instead of using fists, they used guns. They just both happened to have guns, and one of them was killed. You cannot see things like that happen with the frequency that they do in New York, Los Angeles, and Chicago. The homicide rate in schools in Los Angeles is a matter that would shock anyone with the figures.

I think that we have to do something about those, and it does convey the rights and duties and obligations and responsibilities of those that are not living in such crime-infested and dangerous areas. I questioned our witnesses closely, and they often made assertions that law-abiding individuals must have handguns to protect themselves from criminals. The sheriff of Los Angeles County reported that for every robber stopped by a homeowner or storeowner, gun ownership has resulted in four homeowners or members of their family dying in a gun accident.

When a person says, I have got to have a gun to protect myself, I think the figure is two-tenths of 1 percent of the time, an assailant who breaks into a home is shot by a weapon. But of every single gun owned by every individual handgun, 3 out of 4 times that gun

will be responsible for killing or maiming or injuring the owner, a friend or a relative.

Now, with statistics like that, anyone is out of their mind to have a handgun in their home under those kinds of conditions. The testimony of Milton Eisenhower was very, very persuasive. He goes much further than either one of us ever would, but he lived with this problem for 18 months. He served on the commission which Senator Hruska served on with great distinction. He pointed out that less than 3 percent of killing by robbers occurred in private homes. On the other hand, only two-tenth of 1 percent of home robberies, as I mentioned, resulted in firearm injuries to the intruder. And these guns kept for protective purposes were responsible for 50 to 80 percent of homicides between family members, friends, and acquaintances.

#### HANDGUN AVAILABILITY . . . SINGLE GREATEST FOE

I would like to end by just commenting on the fact that Stewart Knight, Director of the U.S. Secret Service, and Rufus Youngblood, former Deputy Director, agreed that the ability of virtually anyone in the United States to obtain a handgun is the single greatest foe of the Secret Service in its task of protecting the President and Presidential contenders. We can hire 1,500, 15,000, 150,000 Secret Service agents, but as long as we have 210 million guns in this country—one for every man, woman, and child in the country, and we have got as many; 4 million handguns being made available every single year—there is no way we can provide protection, not only for the President and the Vice President, and every public official in this country. And certainly, when we see the other day the ease with which they bomb cities, buildings in New York and Chicago and in Washington, we have to do something about this kind of threat against every American citizen, and certainly those in public life.

We are very anxious to work with the members of this subcommittee and the Judiciary Committee as a whole. We offer S. 2153 for your consideration. It is not a perfect piece of legislation. Senator Javits has already mentioned a number of areas in which it could be modified. We certainly look with favor upon any way to move us forward. But what we have not done today is done anything really effective.

Crime rates are soaring. We have freedom in this country of religion, freedom of assembly, freedom of speech. What we do not have is freedom from fear. There is no place in the world where you can go, where it is dangerous to live in the world, as in the United States of America today, other than some country that is in active, open hostilities and combat.

Members of this subcommittee have a tremendous responsibility to do something about that, and I think we are doing it for all Americans who want to do it in a sensible way. We are simply here to say, we want to work with you in every way possible to find a rational basis for thinking through this problem.

Thank you for asking for our comments.

#### PREPARED STATEMENT OF SENATOR PERCY

Mr. Chairman, I join Senator Javits in thanking you for inviting us to testify on S. 2153, the Intergovernmental Handgun Control Act. We look forward



to working with you further in an effort to find effective means to reduce the level of handgun crimes.

Our intention in drafting S. 2153 was to fashion legislation that includes the minimal controls necessary to produce an effective antierime program.

Handguns are used in 53 percent of all murders in the United States and in 80 percent of all firearm murders. Handgun homicides tripled from 1966 through 1973. Thus, our bill puts controls only on handguns.

Certain types of handguns, loosely called Saturday Night Specials, are used more than others in crime and are of absolutely no use as sporting instruments or collectors items. Generally they are small weapons of light construction and low cost. Thus, our bill bans the ownership of such handguns, as they are specifically defined by the Attorney General.

A direct statistical correlation exists between firearm ownership in the various regions of the country and firearm use in crime. Where firearm ownership is highest, firearm homicides and firearm assaults are highest. Thus, our bill directs its strongest controls—a temporary ban on all handgun ownership—to those areas where violent crime is highest.

The strict handgun control laws that have been adopted by some States and localities have been undermined by the easy access of handguns in neighboring areas. Thus, our bill requires that handguns be sold only to those residing in the State or SMSA of purchase and prohibits the multiple sale of guns to a single purchaser.

Finally, a majority of the criminals who use handguns in committing crimes are repeat offenders. Thus, our bill prohibits the sale of handguns to convicted felons and provides a 10-day waiting period to allow the existence of any prior conviction to be determined.

S. 2153 is an antierime measure. It does not interfere with the lawful use or ownership of guns other than where statistics prove that a significant anti-crime purpose would be served.

As you know, the Government Operations Committee recently held 3 days of hearings on Presidential Protection and Firearms Control. We will, of course, share the prepared testimony and transcripts with this subcommittee. I want to make note of what I believe to be some of the more significant and compelling comments presented at those hearings.

We received testimony from the five chiefs of police of Boston, Newark, Atlanta, San Antonio and Los Angeles County. Without exception, they cited the handgun as a major cause of violent crime—not just as a tool—as a cause in itself.

According to the testimony, approximately 75 percent of all handgun murders are committed as the result of an argument or other dispute between spouses, friends or acquaintances. If a handgun were not easily available, a major proportion of these deaths would not occur. Even if another weapon such as a knife were used, studies show that a gun is five times more lethal than a knife.

This causative relationship is also present in cases where the motive is other than passion or anger, such as robbery. The police chiefs of Atlanta, Boston and Newark cited the easy availability of handguns as a major causative factor in the rapidly increasing rate of juvenile crime. The depersonalized nature of a handgun and its easy concealability give the would be juvenile offender an increased sense of power and boldness.

I questioned our witnesses closely on the often made assertion that law abiding individuals must have handguns to protect themselves from criminals. The Sheriff of Los Angeles County reported that for every robber stopped by a homeowner or storeowner with a gun, gun ownership has resulted in four homeowners or members of their family dying in a gun accident.

Milton Eisenhower, former chairman of the President's Commission on the Causes and Prevention of Violence—on which Senator Hruska also served—spoke to this point as well. He pointed out that less than 3 percent of killings by robbers occur in private homes. On the other hand, only two-tenths of 1 percent of home robberies result in firearms injuries to the intruders and these guns kept for protective purposes are responsible for from 50 to 80 percent of homicides between family members, friends and acquaintances.

If we could just get these points across to those who want to keep guns for their supposed protection, I believe we would see considerably less opposition to legislation limiting such possession, and an actual drop in the number voluntarily keep for this purpose.

Finally, one of the main purposes of our inquiry was to investigate the role of handguns in Presidential safety.

Both H. Stewart Knight, director of the U.S. Secret Service and Rufus Youngblood, former deputy director of the Service, agreed that the ability of virtually anyone in the United States to obtain a handgun is the single greatest foe of the Secret Service in its task of protecting the President and presidential contenders. I have suggested alternative means of presenting our candidates' views to the American people—such as through televised debates. However, as one of our witnesses so aptly put it, it is a national disgrace when we have to fear for the President's life every time he gets within shooting distance of the public.

If we can keep guns out of the hands of the mentally deranged and known criminals, if we can stop the use of small cheap guns whose only purpose is to kill human beings, and if we can limit the ownership of other handguns in high-crime urban areas, I believe the American public can have much greater assurance of the safety of their elected officials and of themselves.

Senators Javits, Ribicoff and I want to work with this subcommittee in developing effective legislation. We offer S. 2153 for your consideration. I believe it will be effective in reducing the atrocious number of handgun deaths in the United States. The 1968 Act has not accomplished this purpose and would have to be convinced that any new measures proposed would be prior to supporting them.

Thank you again for asking for our comments.

Senator BAYH. I thank you, Senator Percy.

I notice in the definition of Saturday Night Special, you have cause for other lawful purposes. Law enforcement, military uses, hunting, sports shooting, or other lawful purposes—what are those other lawful purposes?

#### TO DEFINE OTHER LAWFUL PURPOSES

Senator JAVITS. Mr. Chairman, I questioned my own draftsmen about that today. And the best I could get is that it was simply a catchall for anything else that we were missing that might be considered lawful, other than the law enforcement, military, hunting, sports, shooting. So that the only justification for that is to take up any situation which we may have overlooked. We are not cognizant of any, but we may have overlooked it.

Senator BAYH. Is the defense of the home another lawful purpose?

Senator PERCY. It might include couriers on vital missions carrying classified material. We just did not want to list everything, as I saw it. But it would have to be defined rather strictly by the Attorney General, and he would lay down all the specifications.

Senatory JAVITS. May I specify exactly that we do not intend to include protection in the home or self protection on the person. Simply, as I say, we probably can be better refined and perhaps make it altogether when we are sure that we have not left anything out.

Senator BAYH. The reason I ask this question is—I am sure that both of you from your legal backgrounds, and the Senator from Nebraska and I, have found that we have dealt with this specific problem at length—that this is a rather significant loophole.

Senator JAVITS. It is. It would be, unless we dealt with it affirmatively before we pass the bill.

## AUTHORITY DELEGATED TO ATTORNEY GENERAL

Senator BAYH. I might suggest to you, as we go ahead with this, that you consider what is happening by giving this authority to the Attorney General.

We ran into this as a rather sizable problem. There were those on one side that said this would let an Attorney General who wants to be harder on guns than we want him to be to change the definition. And, on the other side, they said this would let pressure from lobby groups cause an Attorney General to bend and to lower the standards. That is why, when we were defining a Saturday Night Special, we wrote into the bill specific criteria that were contained in the criteria established under the 1968 Firearms Act as it relates to defining Saturday Night Specials for sporting purposes.

As far as importation is concerned, you might consider that.

Senator JAVITS. Very definitely, Mr. Chairman. We will all be with you in the greatest specificity.

Senator HRUSKA. I shall be brief. I just received a summons from my chairman. We always obey our chairman.

I was interested in the idea of including other suitable purposes as exempting handguns from the prohibition of private ownership. I was interested also, Senator Javits, and Senator Percy, in references to the Violence Commission and its finding that guns in the home are more of a hazard than they are a help.

During the course of the hearings within the Violence Commission, this figure was brought up again and again. The rationalizations and the conjecture, or the extrapolations, or whatever you have, with reference to the gun being a danger in the house, and therefore, should not be present were discussed at length. The stark figure is in the record, and it is a fact: Over 3 million handguns are produced and brought by people in America every year.

Now, it would be most difficult for the man behind the counter to say, "Please do not buy this gun. Dr. Eisenhower says it is more dangerous to you than to whoever comes in your house." But 3 million people a year buy handguns which are an irrefutable factor in this business of whether or not the handgun is of a danger or of help within the house.

What comment would you have on that? How could that be overcome by a law saying you must do this? How can it be done?

## AROUSE PUBLIC OPINION—HANDGUNS COUNTERPRODUCTIVE

Senator JAVITS. I think, Senator Hruska, that we have to arouse the public consciousness to the fact that this is our case under present conditions, and while we can all understand it, it is like, for example, every home had certain types of remedies in other days, before we had antibiotics, and other things. Well, they were simply discarded as out of date and counterproductive. Many were affirmatively harmful. For example, I am sure the Senator—without in any way challenging his age—and I am old enough to remember when very nice ladies took cough medicine, or medicine to soothe their nerves, which had very habit forming drugs in them. The Senator remembers that just like I do. They were called by very interesting



names, like Lady Somebody's Cough Remedy, or something, that is all.

Senator Hruska, we have a common problem of arousing the American people to the evaluation that on balance, what we are counseling will leave them better off in totality. The idea of confining it for the present to heavy population areas is really some compromise between prudence and reality, are very much of a kind the Senator has just mentioned.

And may I emphasize, too, that we are still suffering from the fear of people who love hunting and hunting rifles, and that somehow, we could get to them. We have pledged often enough, it seems to me, to be believed, but there you have a roughly comparable situation. These fixed feelings in the public mind are very hard to deal with. But I believe that the sentiment is growing on the handgun business. And I believe that we can overcome what the Senator says, which is a hard and irrefutable fact.

Now, as to redeeming back the handguns which people have in areas where they are prohibited, that is a problem, too. It could be a very big financial problem. But when you lay that side by side with what is to be gained, especially in the heavy population areas, again, we have to convince the public that it is very well worth it.

Senator HRUSKA. Well, of course, that is nice to say and the tone of sincerity carries a lot of persuasion. Something must be done, and we must educate the public, and so on. But we are not satisfied with that, and it does not get us very far, and certainly not in the field of legislation.

Now, 15 years ago, when gun legislation first made its appearance—and I was here—the cry of the chiefs of police, the predecessors of those who testified in your own committee last week, was, we can cope with this matter of illegal guns, if you will only stop the infiltration of illegal guns from across State lines. That was their plea. That was their objective in coming before us. And we gave it to them in 1968. It is already illegal to have multiple sales to individuals, because then, as soon as it is a multiple sale and beyond a reasonable degree, it is engaging in business, and you cannot engage in that kind of commerce, without a license.

It is already illegal to ship across State lines. That is in the law. And we tried our best in 1968, with the temper of the times, to do something.

And I am pleased to see the withdrawal from the idea of an outright prohibition to private ownership, at least for the time being, because it is impractical. Only 7 votes out of 91 were in favor of that approach in 1972.

#### EFFORTS TO IMPROVE 1968 ACT

I am also encouraged to see the efforts to improve the 1968 act in the field of enforcement, in the field of lowering the number of licensed dealers, for example, in mandatory sentences, in multiple sales, and the careful monitoring of all the dealerships, and in the field of prosecutions and sentencing.

But when we get into the business of trying to deal with individual sales between persons, and they number some 14 million, I

wonder how much progress we are going to make, and what penalties will be attached. Let me give you an example. And I am so happy to have Senator Javits here, because we covered this ground with Mayor Lindsay, about 3 years ago. He came and pleaded for a law making illegal guns and prohibiting them.

Now, in New York, that has been law for 60 years. The New York Times estimated that there were a million handguns in private ownership and in violation of the law. And in that crime survey which Mayor Lindsay caused to be made, not a single word was devoted to the subject of enforcement of gun control legislation within New York. I read it and studied it closely.

Now, you see, if it means that 30,000 or 35,000 New York policemen cannot cope with the problem within their own city, with laws making interstate shipment illegal, how can they do it in a Nation of 215 million people, scattered from Maine to Hawaii? That is our problem. Can you comment on that briefly?

Senator PERCY. Yes. I would like to because I think, really, if we can answer that question of yours we will know what to do in the future. I think, first of all, we have seen in other areas evolving, changing public opinion. It used to be that in Illinois we can manufacture—and we did—probably more lawnmowers, hedge clippers than any other State, and you could just make them any way they wanted to. Suddenly, we decided that you could not make one that would enable a lawnmower or a hedge clipper to cut off an arm or a leg. It was too frequent, and we established certain standards that they all had to retool and adhere to.

When the automobile manufacturers told me years ago—and I talked to Dick Gerstenberg and others in the field—we have got to keep making the big cars because that is what America wants. We just cannot keep doing that; it is not in the national interest to do it. We are finding ways now to convert out of the big field into the smaller type, and they are running pell mell to change right now.

#### NEED PUBLIC UNDERSTANDING OF STATISTICS AND ODDS

So, too, in this area. I think it depends on public understanding. If they were to just recognize and listen to those police chiefs and take into account that all of life is a series of statistics and you are betting on what the odds are, and if the odds are so low, almost zero, that you are ever going to use that gun to protect yourself on the street or in the home, but the odds are very high that you may kill or maim yourself or brother or sister or wife or someone like that, or a friend, then it makes no sense, it makes no rational sense.

Senator Hruska. I happen to think this true when 9 years ago, an intruder came into our home and murdered our daughter. Should I have had a handgun there? When my wife discovered and saw this act being committed, could she have protected my daughter? Our answer was absolutely not, and I have not had a gun, a handgun, in my home ever, and I am not going to now. The chances are too great. As a rational human being, I would say the chances of protecting a member of our family as against hurting a member of our family or someone else is far greater by having a lethal weapon in our home than not having it, so that I just hope the American



public will listen, and they are, according to Lou Harris' figures that were revealed before us. There is evolving change in attitude, Senator Hruska, that we must detect and be cognizant of here, and I hope respond to.

America is changing its thinking, and in the very vocal, highly articulate and well organized gun lobby, I hope, someone responsible will stand up in that community, just as Henry Ford and Leonard Woodcock did on the highway trust fund and spoke against what they previously looked as though their short-run interest and long-run interest and took a public position that was sound and wise.

I hope we will have someone in the other lobby that will take that same kind of a position.

#### FARMERS AND SMALL TOWNS AGAINST GUN CONTROL LAWS

Senator HRUSKA. One more observation, then I shall depart.

In due time we will evaluate public polls, but the most persuasive poll is a vote of 7 to 84 in the Senate. That was in an election year. That is one thing; we will deal with that in a different context after a while and further on in these hearings.

But let me tell you, I spent about 8 days in Nebraska during a congressional recess not long ago. There were two topics of conversation. The first was the financial reverses in the metropolis of the Eastern seaboard, and the other was gun control: "Do not let them take our guns away from us."

Now, maybe Lou Harris was out there. If he was, he added wrong or subtracted wrong or extrapolated wrong, because when you go out into the Middle West and, as rational and as persuasive as your arguments are in the committee room, you talk to that farmer and that little townsman in the little cities up and down, all the way from the Canadian border to the Mexican border, that is not language they understand.

They say, that is fine. Regulate the guns for the bad guy, but you leave me alone. I am going to save my family and so on, and that is one of the practical things. So if we get into the business of Saturday Night Specials, will that be a method of harassment, of giving undue discretionary power to the prosecutors, that they can manipulate and handle whenever they want to, and disregard the rights of law-abiding citizens whenever they want.

That is one of the concerns of the Department of Justice. We know that it is. So it is a complicated problem. It has a long legislative history, and we are going to make another try. We are glad for your interest in it in Government Operations. I certainly am, and I am finally in full support of all those things which are necessary to improve our present law.

Now, on the score of prohibition or licensing or registration of even Saturday Night Specials, depending on how they are defined, you will not find me in the ranks of those who are favorable to the type of bill that you heard in your committee. And for reasons, not because I do not want guns to be there and not because I am in favor of guns shooting people, but because of many other sound and profound reasons and causes.

I join the chairman in thanking you for being here and for helping us out with the record.

Senator JAVITS. May I make one observation, Senator Hruska, about the citizen in the smaller city and in the rural area?

This is a problem which hits us uniquely hard, and that is why we sponsor this idea of picking out the very heavily crime-impacted metropolitan areas, trying to minimize the impact upon these individuals whom you describe. I am addressing an appeal to them, that they, too, as long as they are out of it, will not stand in the way of what we consider so absolutely essential to heavy population centers—in terms of our own domestic security and the tranquility of our lives—any more than we refrain from voting funds for irrigation or floods and dams or other great improvements which are important to our country but may not benefit our particular way of life or our particular area. We hope that they will realize that we are doing our utmost to safeguard all of their rights and that they will not, therefore, simply stand in the way of a very great reform so critical to our own security in the cities.

Senator HRUSKA. Thank you.

Senator BAYH. Our next witness is Mr. Ronald Gainer, acting director, Office of Policy and Planning, Department of Justice.

Mr. Gainer, we appreciate your being with us this morning.

**STATEMENT OF RONALD GAINER, ACTING DIRECTOR, OFFICE OF POLICY AND PLANNING, DEPARTMENT OF JUSTICE; ACCOMPANIED BY DENIS HAUPTLY AND KAREN SKRIVSETH, ATTORNEYS, OFFICE OF POLICY AND PLANNING**

Mr. GAINER. Mr. Chairman, the Attorney General, of course, has previously discussed the Department of Justice and the Department of the Treasury draft legislation on this subject with this subcommittee. I have been requested to appear here today with my colleagues, Karen Skrivseth and Denis Hauptly, of the Office of Planning and Policy of the Department of Justice, to respond to any further questions that the committee may have.

In the interest of brevity, let me note initially a few matters. First, in the 1968 legislation, dealer sales to felons are proscribed, but the legislation gives a dealer no effective means of assuring that a buyer standing in front of him is not a felon.

**LOOPHOLE ALLOWS HANDGUN PURCHASE BY FELONS**

Senator BAYH. That is one loophole that we must deal with. There is no magic way he can keep a felon from purchasing a gun. He does have to commit perjury. But he can just sign it right on the line, and that dealer is not going to have any other knowledge but which the purchaser gives him. The police chief and the FBI might know. But with a crime record check we ought to be able to deal with that.

Mr. GAINER. Well, I think we can. It is a silly system we have now that permits a buyer who is a felon simply to say that he is not a felon and that leaves the dealer no recourse except to take his word

for it, for practical purposes. This is not the most effective sort of screening technique.

Since this hearing began this morning, assuming that this was a typical business hour, there have been 1,000 handguns sold in this country by dealers who have no way of knowing whether or not the buyer who is standing in front of them is or is not a previously convicted felon. By the end of the day, there will be 8,000 such handgun sales across this country.

The Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury, the FBI, the U.S. Attorneys, and the Criminal Division of the Department of Justice agree that, at the very least, the Congress should establish some means of assuring that a handgun buyer has not already been convicted of committing a felony. It seems elementary. It is elementary, and it is important.

Senator BAYH. I might just expand on what you said about 1,000 purchases in the past hour.

South Carolina studies show that 3 percent of the sales in that State were to felons, which means that somewhere between 200 and 300 felons buy weapons every day.

Mr. GAINER. The other crying deficiency in the 1968 legislation concerns the so-called Saturday Night Specials, the junk guns. The 1968 legislation proscribes the importation of Saturday Night Specials, but it has a glaring deficiency, as you are keenly aware, in that it does not proscribe the importation of parts and it does not prohibit the domestic manufacture or assembly of these junk handguns.

In the same past hour, of those 1,000 handguns sold throughout this country, 400 were junk guns—Saturday Night Specials. By the end of the day, 3,200 Saturday Night Specials will have been sold in this country. These are the guns that are used in about 70 to 75 percent of handgun crime.

Senator BAYH. Excuse me.

Senator Javits in his statement before this committee said that this was an illusion to try to prohibit the sale of parts and manufacturing of Saturday Night Specials.

Do you think that is an illusion?

Mr. GAINER. I think he was referring to his belief that by itself, without anything else, it is not going to have a material effect upon the incidence of crimes committed with handguns. It will have some effect; in combination with other measures, it could have a material effect. We think it is very worthwhile trying to cover this deficiency in the current law.

#### SATURDAY NIGHT SPECIALS USED IN 75 PERCENT OF CRIMES

Senator BAYH. Seventy-five percent of the guns used in crimes are Saturday Night Specials. How can you say that if we deal with that part of it, it is going to have just some effect?

Mr. GAINER. I think it will have a material effect, but I think it will be very difficult to come forth with a clear estimation of just what kind of effect any legislation is going to have. We have to engage in presumptions to a certain degree. We have to engage in an exercise of logic in many areas dealing with the effect of various forms of handgun control.



One of the difficulties is that there is no effective control on criminal use of handguns in this country today. Many cities, many States, have various kinds of legislation, but much of it is totally unworkable. It is unworkable simply because of the high mobility of handguns that we have in this country today. There is simply no effective Federal legislation that prohibits guns from outside a metropolitan area from going into that metropolitan area. All the felons have to do is lie and say they are not felons. They can then purchase a handgun and take it into a metropolitan area.

#### INTERSTATE TRANSPORT PROVISION NOT ENFORCEABLE

This, I think, is a material deficiency in the current law. One can say, as Senator Hruska has, that we have a law today that prohibits the interstate transportation of handguns. We do have, but it is not a provision that can be enforced. Because it cannot be enforced, it has not been enforced. There has to be some modification of the existing legislation that would permit that simple proscription—that very elementary proscription of the sale of handguns to felons—to be enforced.

Senator BAYH. Why can that prohibition not be enforced? The terms are rather simple. Is the shortcoming, perhaps, not in the legislation but in the enforcement of it?

Mr. GAINER. No. I think the difficulty is this. Individuals convicted of felonies, as a class—when confronted with a questionnaire asking have you ever been convicted of a felony—are not too hesitant about saying no, they have not been. This is enough to permit them to buy a handgun.

That is why, under the legislation that has been submitted to this subcommittee, there is a very simple procedure employed in order to assure that a dealer will get enough information from the individual to transmit it to the local police where the individual lives; and to have the local police determine whether or not he has a felony record in that jurisdiction; and to have the local police then check with the FBI to see if he has a felony record in another State. If not, the sale can be accomplished.

This would be a very modest extension of existing law. But, given the rate of felonies committed by persons who previously had been convicted of felonies, it can have a material effect on the crime rate in this country. This—in combination with the Saturday Night Special approach, with the reduction of the number of dealers, and with some other minor modifications of existing law—we think can have a material—

Senator BAYH. But you can enforce the provision against interstate sales, whether they are felons or nonfelons. It does not make any difference whether you are a felon. If you have a New Jersey driver's license and you are in South Carolina, it is illegal to buy a handgun, is it not?

Mr. GAINER. That is illegal if it is a New Jersey license, but if he simply presents a South Carolina license, there is no surface illegality involved. The dealer has no way of knowing whether the license is his. Anybody who is really determined to obtain a handgun is going to be able to forge his identification, or to buy phony identification, or to steal identification from somebody bearing a superficial physical

resemblance to him. But he is not going to be able to change the police records in his own community; and he is not going to be able to change the FBI records concerning felony convictions in other jurisdictions. This is what makes that prohibition enforceable.

Senator BAYH. It certainly would help.

Mr. GAINER. Yes, it would. It is not going to be a cure-all.

#### MANDATE FOLLOWUP OF DEALERS' INFORMATION ON PURCHASER

Senator BAYH. In your legislation, as originally proposed, as I recall there will be no mandatory requirement that such information be submitted to the authorities. It just provides for a waiting period. I suggested to the Attorney General we ought to give very serious consideration to changing that language by mandating that this information be submitted—require that gun dealer to submit it—and require the local law enforcement officials to further pursue it through the necessary channels. Have you considered that suggestion? Just having a waiting period does not really mean much.

Mr. GAINER. Well, the cooling-off period itself has some effect because of the demonstrated temporal relationship between buying a handgun and using the handgun. But that aside, one can modify this provision to require the local police to initiate the FBI name check procedure, and to require the local police, by some means or another to engage in a check of their own records. What the bill requires currently is simply that the information go to the local police. The understanding was that the local police are the ones who are being shot by felons with guns, and therefore that they have a clear interest in insuring that they do check their own records. The provision can be modified one way or the other. The important thing is to at least provide the opportunity—perhaps force the opportunity, if necessary, but at least provide the opportunity—to make the check of criminal records.

The important thing is to at least provide the opportunity, perhaps force the opportunity, if necessary, but at least provide the opportunity so one can ascertain whether or not we are solving the problem.

Senator BAYH. If we are looking for loopholes, that is a big one.

For example, there is nothing to keep someone from leaving Terre Haute, Ind., where the municipal police can be very determined to utilize the waiting period to check their own records, the State police, and also to the FBI. Knowing that, if I had just been released from the Federal penitentiary south of town, I would probably go someplace else in southern Indiana. I could buy a weapon there. This is legal as I have not left the State. Perhaps that county sheriff or small town constable might not have that same determination to utilize the time provided by the waiting period.

Mr. GAINER. There is a slight misunderstanding as to the effect in that small town. The dealer would have to send that information not to the local police at the place of sale but to the local police in Terre Haute, where the individual lives. And that the police chief—the one with the interest, as you have acknowledged, in assuring that a felon is not purchasing a handgun—would be the one to go through his records. It is the police at the place of residence of the individual, rather than at the place of sale, who would check for a criminal record.



Senator BAYH. Would you support a measure to require that this information be submitted to the appropriate authorities?

Mr. GAINER. The information is required to be submitted to the local police, so no change in the bill is required for that purpose. I think a question arises because the police are requested, but not required, to send the information to the FBI for a check of their records. That could be explicated in some fashion or another. One has to be somewhat careful in doing that, however, to assure that the Federal Government is not ordering local police to do something that the Federal Government is not in a position constitutionally to order them to do. But something on this order could be drafted in the legislation.

Senator BAYH. Would you help us in drafting that kind of legislation?

Mr. GAINER. We would be delighted to help you with any facet of the legislation.

Senator BAYH. We appreciate it.

I have interrupted you here.

Mr. GAINER. That is all right. I really had intended to make only a very short, extemporaneous opening statement.

We are ready to attempt to answer any question you may have.

Senator BAYH. There has been a considerable amount of discussion with another committee in the Senate holding hearings, and some criticism directed at the previous efforts of this committee—which, certainly, I too would be the first to suggest there is room for improvement.

But I also feel if there has ever been a time in our life when waving the flag under reasonable and possible expectations was a responsible intent it is now. What this committee is trying to do is to confine our efforts at firearms control. We have the biggest problems: (1) whether there is a direct relationship between the ownership of the weapon, the kind of weapon that is used against the public; and (2) where we have the best chance of success with legislation. I think we are kidding ourselves to attempt otherwise.

Is there one kind of gun which is more apt to be used in the commission of a crime than any other?

#### SATURDAY NIGHT SPECIAL MOST COMMON CRIME GUN

Mr. GAINER. The "Saturday Night Special" is far more commonly used in crimes than more expensive weapons. The Bureau of Alcohol, Tobacco and Firearms ran a test survey in four cities called "Project Identification," which evaluated the number of Saturday Night Specials among the handguns used in crime. Depending on what combination of factors was used to define the Saturday Night Specials, between 50 and 70 percent, or so, of the handguns used in crime were found to fall within that category. The Bureau currently is in the course of completing an extension of that study to several other cities, and I understand that the report will indicate that the proportion of Saturday Night Specials used in crime continues to be about the proportion indicated in Project Identification's initial phase.

Senator BAYH. On April 23, 1975, we heard the Bureau of Alcohol, Tobacco and Firearms testify before the subcommittee that 53

percent of all handguns were currently sold in the United States. More than 70 percent of all handguns used in crime would be covered in the criteria of the Saturday Night Special bill which I have introduced, and which passed the Senate, only to die an ominous death—depending on what perspective you look at—in the House. Now, are those statistics still close to accurate?

Mr. GAINER. Those are the same rough figures that we are coming up with from several different sources, most of them are available in the literature developed by Zimring, Krug, and others.

Senator BAYH. How does the factor criteria of the administration bill compare to the factor criteria in the Saturday Night Special bill which I have introduced?

#### REVOLVER BARREL LENGTH MINIMUM OF 4 INCHES

Mr. GAINER. Well, a broad answer is that it is a reflection of the Department of the Treasury's latest proposed revision to the existing import criteria test. A specific difference is that it adds 1 inch to the necessary barrel length of a revolver, requiring that the barrel length be a minimum of 4 inches, rather than a minimum of 3 inches. There are a variety of other minor modifications developed by the Bureau of Alcohol, Tobacco and Firearms for the purpose of making the test a little bit more objective and to concentrate a little more on sporting purposes and concealability. This is their own evolution of the test that is now employed and the test that is incorporated in your bill. Either test is going to proscribe about 70 percent of the weapons. ATF feels that its test may cover about that number; other proposed new tests may cover a few more. But the difference, I would guess, would be fairly marginal.

Senator BAYH. That is 70 percent of the handguns made in the United States.

Mr. GAINER. Excuse me. It is about 54 percent of the handguns made in the United States that would be excluded under the factoring test. That is the figure used by ATF.

Ms. SKRIVSETH. I believe the 70 percent figure relates to the amount of handgun crime which is committed by using Saturday Night Specials.

Senator BAYH. Does that mean to say the figures involve the use of these weapons in crime? Is it fair to say we had almost 2 million—1,894,872 handguns—made in the United States: 53 percent of that is pretty close to a million.

Mr. GAINER. That is correct.

Senator BAYH. Would all of the 687,000 handguns that were assembled in the United States by imported parts be covered?

Mr. GAINER. I do not know that all of them would, but I think that figure of 687,000 relates primarily to parts that are used to assemble guns that could not pass the import test. Indeed, that is the reason those weapons are now being shipped here in parts and assembled within the United States.

Senator BAYH. Are we talking about the 53 percent, or a million handguns; or close to 2 million guns made or assembled in this country. We are significantly adding to that amount if we keep open the loophole which permit parts to be imported—we are talking about another 600,000?

Mr. GAINER. Senator, that figure of 687,000 is included within the 1,894,000 currently manufactured in the United States. Of the total figure, roughly 54 percent of the handguns manufactured here from domestic parts and foreign parts would be excluded.

Senator BAYH. Our approach has been that we should cover both cheap and expensive weapons. We are talking about logical sporting purposes, with a test and concealability relationship there. Is it accurate to assume that the administration bill also covers expensive, as well as inexpensive weapons?

#### EXPENSIVE WEAPONS INCLUDED IN TESTS

Mr. GAINER. It would indeed cover some expensive weapons that could not meet the overall length tests, or that were not sufficiently refined in various characteristics to meet the total requirements.

Senator BAYH. We are really talking about the junk weapons, then?

Mr. GAINER. It is primarily junk weapons that will be excluded under either version of this test, but there will be some expensive ones caught up in this test. One can have a very expensive pistol with a very short barrel, and yet, it is totally unusable for purposes of formal or informal target shooting. The longer the barrel, the better the sighting radius, the better the accuracy—and a barrel of at least 4 to 5 inches is generally required for any accuracy at all, even for “plinking.”

Senator BAYH. I think we are close to agreement on how to deal with the waiting period; they can certainly get that information. As I look at it, there is a sizeable loophole—unless we are prepared to deal with it—because that waiting period is involving only the purchase of a handgun from a licensed dealer. Could this mean your next door neighbor, who is not a felon, could go in and buy one and then sell it to you tomorrow?

Mr. GAINER. Yes. The next door neighbor, however, might know an individual buying the gun sufficiently well to have a real reason to believe that he is not, in fact, a felon. He may have known him for 30 years or so. In that case, he would not be proscribed from making a sale, under the administration bill.

Under this bill, there is a requirement that the person selling a handgun, any handgun, know or have reason to believe that the person to whom he is selling is not a felon. This test would, of course, have more effect on a potential sale to a stranger than to a neighbor.

I think you are right in pointing out the potential loophole there, in that there is not an effective means of proving that the individual seller did not know or did not have reason to believe that the individual was not a felon. There is a problem in that regard.

#### BURDEN OF PROOF TO SELLER

Senator BAYH. Do you believe there is sufficient protection in this bill to shift the burden onto the seller? Do you feel we have fully covered it under this bill, if, indeed, the private seller does know he is selling to a felon, that is part of the criminal act?

Mr. GAINER. If he does know, it is covered. There is a difficulty in proving any mental element in a crime. It may be very difficult for a



Department of Justice attorney to establish, for example, what the individual seller did know or did not know.

Senator BAYH. I would like us to go beyond the technical question. I would like us to deal with practical questions, as to whether we have gone far enough to deal with both of those contingencies.

Mr. GAINER. One question is whether an individual might be required in selling a handgun to sell it on the dealer's premises, with the buyer filling out the same form as he would if he were buying from the dealer. I suppose that could be written into legislation as a means of permitting the seller to assure himself that the person to whom he is selling is not a felon.

In going through a variety of options in the Department, in conjunction with the people in the Department of the Treasury, the possibility of adopting something of that nature was explored. It could carry a civil penalty or it could carry a criminal penalty or it could carry a contingent penalty. For example, if the private seller sold to somebody negligently, without even trying to find out whether he was a felon, he could perhaps be held contingently liable for a civil penalty or a criminal penalty if the person to whom he sold the handgun later used the weapon in a crime.

Senator BAYH. That is opening up another problem.

On the status of purchasers, would you have any objection with the administration's support in an effort to apply that 14-day waiting period to the private sale as well as to licensed dealers?

It seems to me that would at least give a check on the present status of the purchaser.

Mr. GAINER. Yes, it would be very effective in that regard, as a matter of fact. It would cover the 30 or 40 percent of handgun transfers which are made by individuals in this country. And I think, as a matter of fact, that either Mr. Davis or Mr. Dessler of ATF, who testified before you in April, have suggested something akin to such an approach.

Senator BAYH. As you pointed out, the Bureau of Alcohol, Tobacco and Firearms people have picked up the specific responsibility for this kind of problem—where you did recommend this as being helpful—have had it out 6 months. What about the Justice Department? Will you be prepared to support the Bureau of Alcohol, Tobacco and Firearms people?

Mr. GAINER. Well, it is certainly designed to achieve a worthwhile objective, and that is to prevent the——

Senator BAYH. Is that answer yes, but? Or yes, maybe?

#### EXTEND WAITING PERIOD TO PRIVATE SELLERS

Mr. GAINER. I think that is a fair assessment. The Criminal Division of the Department strongly favors something of that nature in order to reduce the prosecutorial burden of establishing a case.

Senator BAYH. I just want to say that we would like to move legislation here. It would be very helpful in the course of marking up this bill if we could suggest the Justice Department does believe that this would be not only a logical extension, but indeed would support this.

Mr. GAINER. I think it is certainly a logical extension. Let us see if we can work with you on this.

Senator BAYH. I will ask our chief counsel, Mr. Rector, to pursue this in more detail with you.

Another section of the President's bill seeks to tighten certain requirements of those seeking licenses for the operation of firearms. Can you tell us how these requirements were changed, please?

Mr. GAINER. Today, anybody with a felony-free record and \$10 can get a license to sell firearms. The provisions here would tighten this up somewhat. The individual today who pays his \$10 for practical purposes is fairly free to operate in violation of the law with little chance of being detected. Given the fact that there are roughly 150,000 firearms dealers in this country, the present manpower in the Bureau of Alcohol, Tobacco and Firearms can get around to each dealer only about once every 10 years, and has time to review only about five transfer records.

Part of the problem today is that there is only one class of Federal firearms dealer's license. Yet a great many dealers holding a dealer's license—I think it is between 20 and 30 percent or thereabouts—are really interested only in selling ammunition, and that is all they do sell. Also, quite a few of the department stores in particular sell only long guns—rifles and shotguns. If one could sever out the various kinds of dealers, then the Bureau of Alcohol, Tobacco and Firearms could concentrate on those dealing with handguns and weapons used in crime—the weapons that are of interest to the Department of Justice.

Senator BAYH. So you could have a long gun license, an ammunition and a handgun license.

#### CLASSES OF LICENSED DEALERS

Mr. GAINER. Right. An ammunition license could be acquired for a fairly nominal fee. A gun dealer's license would have a fee varying in relationship to the enforcement cost; certainly far more enforcement cost is required for the handgun dealer than for the long gun dealer.

In addition, the fees for dealers would be increased by this bill to \$100 for a long gun license and \$200 to deal in handguns. These are not prohibitive. These are amounts that any dealer who is actually operating a business is going to be able to make back after the first few sales of his weapons in the course of each year. Yet it will provide funds a little more proportionate to the cost of enforcement.

Senator BAYH. How many people will be affected by this?

Mr. GAINER. It is a little unclear how many will be affected, since of the 150,000 dealers today, nowhere near all of them are dealing in handguns. The Bureau of Alcohol, Tobacco and Firearms has estimated that there may be less than 50,000 actually dealing in handguns today; it may be less than that. It was their estimate that under this procedure, probably only 30,000 dealers would choose to sell handguns as well as ammunition or long guns.

Senator BAYH. Would this create a hardship for the sportsman?

Mr. GAINER. I do not think so. Most weapons used by sportsmen are long guns, and a \$100 fee is going to drive out of business virtually no legitimate long gun dealer. The individual who wants to buy a handgun still is going to have 30,000 or more dealers scattered around the country. Gun owners could still get their ammunition any place where they can get it now. The source of weapons most apt to be



affected is pawnshops—about 30 percent of the weapons used in crime are coming from pawnshops.

Senator BAYH. What about the multiple-purchase problem? The administration bill, as I recall, would prohibit one person from purchasing more than one handgun in a 30-day period.

Perhaps you would approach any person who could buy 12 guns a year, is that really as restrictive as we want to make it?

#### MULTIPLE SALES TO HANDGUN BUYERS

Mr. GAINER. The idea is not to make it really restrictive. It is simply to avoid the opportunity for gunrunners to be able to obtain the weapons in the quantity necessary for them to conduct their business.

About 2 to 7 percent of all handgun purchases currently are in violation of the law. But when multiple purchases are involved, about 58 percent of the purchases are in violation of a law. These are by gunrunners.

This bill would prohibit the sale to, or the purchase by, any individual of more than one gun in a month without approval or notice to the Secretary of the Treasury. It still would permit him to buy 12 a year without following the approval or notice provisions. An individual who wants to buy half a dozen guns for a sporting club could go ahead and buy them as long as he gets approval beforehand from the Secretary of the Treasury.

Senator BAYH. Are we dealing with the buyer or the seller or should we deal with both? You can shop around you know. Just make a tour of the stores and buy one gun a month from different dealers.

Mr. GAINER. It does deal with both. You are right. The gunrunner will not be able to engage in the business he has developed under the existing law because when he goes into a dealer's he will have to give his identification, there is going to be a 14-day waiting period, and he cannot buy more than one at a time. To accumulate 50 guns, he is going to have to go to 50 different locations—scattered around the country—and he is going to have to come forth with 50 different sets of identification of sufficient value to fool the local police when they conduct a name check of him, and the FBI when it conducts a name check. That is going to be a very, very difficult thing. It is going to take a great deal of time and energy and it is not going to make that business profitable.

Senator BAYH. Here again, if we are looking at those people, we have an organized operation. If we can deal with the private sale in the course of the waiting period in trying to block the loopholes, they are just one step removed.

If you had somebody in a community or neighborhood, who was willing to buy the guns, the fact that you were a multiple purchaser would not be immediately available.

Mr. GAINER. I think you have put your finger on a difficulty there. There is a provision in the bill that would proscribe purchase with intent to sell to somebody else, if you knew that person was not entitled to buy under this bill. However, there again is the problem of proof. A gunrunner with a felony record could stand outside a series of gun shops, offering \$5 to a passerby to buy him a weapon,

I suppose. Each buyer would still have to go through the waiting period, however.

#### IF SELLERS WERE HELD RESPONSIBLE?

Senator BAYH. If we are really going to deal with this, it seems to me that we have to deal with the sale of the weapon. If I am going to rob a bank, the fact that I could legally purchase the weapon is a miniscule thing to think about. But, if the person who was selling it to me knows that he or she would be in trouble, then we have tightened it up a bit have we not?

Mr. GAINER. Yes. However, as you pointed out earlier we would have some difficulties in enforcement procedure with private sales.

Senator BAYH. Let us see if we cannot sharpen that up. We have been looking at some of this other legislation—the measures recommended to us by our two colleagues in S. 2153. It seems to us to be a pure registration system.

Can you tell us the purpose of the registration system such as in this one? Would it really limit ownership, or just advise ownership?

#### PRIMARY PURPOSE TO TRACE WEAPONS

Mr. GAINER. A classic registration provision requires that a description of a particular weapon and the owner's name be recorded in a central registry. It serves primarily as a remedial device, in that if the weapon is later found to have been used in the course of a crime, it can be traced back to the person who possessed it and who registered it. It serves secondarily, to a certain degree, a preventive purpose in that it would deter some transferring. Since any seller knows that, if he transfers to an individual without reregistering, he may be subject to some liability. But the primary value is in tracing weapons.

There has been a great deal of emotion generated by the classic type of registration provision. The emotionalism is prompted by the fear, of a great many people voicing concern, that a Machiavellian administration, with a central registry in which the names of all handgun owners are recorded, would be able to call out the army and make a midnight raid to collect all the weapons in the country. However much one might discount the probability of such an action, there are many individuals who are sincerely bothered by the possibility.

Currently, under the 1968 Act, about 65 percent of handguns used in crime can be traced without any registration system at all. The current provisions requiring dealers to keep a record of the individuals to whom they sell, requiring distributors to keep records of the dealers to whom they transmit weapons, and requiring manufacturers and importers to keep similar records, provide a means for the Bureau of Alcohol, Tobacco and Firearms to trace a weapon that has been used in crime. They do it by a fairly clumsy method, but it does reach the necessary results. What is done today is this. If the FBI or a local police officer or a State police officer finds a weapon that has been used in a crime, he can telephone ATF and say, "I have a weapon manufactured by so and so, the serial number is such and such. Can you tell me to whom that weapon had been sold? The Bureau of Alcohol, Tobacco and Firearms will then go to the records it has

concerning the manufacturer. The manufacturer will then be asked by the Bureau of Alcohol, Tobacco and Firearms by telephone to check its records for the name of the wholesaler. They will then telephone the wholesaler and ask, "To what dealer did you send this weapon?" The dealer will be asked to flip through the little card file that he is required to keep—the standard forms that he is required to keep on all purchases—and the dealer can then say to whom the weapon has been sold.

This sounds like a convoluted procedure. It is. It should be noted, however, that the weapon used to shoot Governor Wallace took about 10 minutes to trace, and the weapon that was used to kill Dr. King took about 20 or 30 minutes to trace. About 65 percent of the weapons used in crime today can be traced by this method. About 35 percent cannot.

Tracing ability is the prime value of a registration system.

#### LAW COST-AND-EFFECT RELATIONSHIP

Senator BAYH. I have an old fashioned feeling that you do not just pass laws. You must take into consideration the burden of enforcing the laws, the bureaucracy and the administration involved for the cost of the program as compared with the results.

How does that total registration relate, as far as cost to effect? How does that weigh against a licensing provision for the carrying of a concealed weapon?

Mr. GAINER. Well, for registration alone, much of the procedure already exists. One early figure we obtained from ATF indicated a cost of about \$40 million simply to conduct a registration of the existing handguns.

A licensing system, of course, is an entirely different approach to the problem of controlling handguns. ATF has suggested a \$100 million cost of licensing existing owners. The reason for the cost is that such an approach would involve increased screening of owners. A restrictive licensing system, such as that employed in New York, might cost considerably less since few applicants could meet the requisite initial showing of need and consequently few would have to undergo full screening.

Senator BAYH. I am not talking about just a Federal registration.

About 20 States now have a State provision; and, if that State provision is accurate, then they will conform to the Federal standard. But then you significantly narrow that down, and you give the States the option that they require a licensing procedure for carrying a concealed weapon or the implementation of Federal Regulation.

Now, if that is the case, then I think you are going to have several other States that are going to take advantage of this. Would that not be the case with the handgun that is closer to the use of the commission of the crime? Or were you giving the law enforcement official the vehicle to deal with someone they apprehend who is carrying a concealed weapon and is not licensed?

Does that make more sense—the greater return on investment registration?



## ADMINISTRATIVE COSTS ON DIFFERING ENFORCEMENT SYSTEMS

Mr. GAINER. Plusses do exist from the law enforcement standpoint. There are several kinds, as you have pointed out, of licensing systems. They can be very restrictive, such as that employed by the city of New York, for example—which has a very restrictive system accompanied by a harrassing technique, as a matter of fact—or they can be very nonrestrictive, requiring simply that the individual be, for example, above 21 and free of a felony record. The costs of administering those two kinds of licenses will vary tremendously. It would be a little difficult to forecast how a State-implemented, federally directed system would work and how much it would cost in total.

In New York there was an estimate—I think around 1968 or 1967—that it costs about \$75 to \$77 to conduct the investigation that New York engaged in. That investigation is a fairly complex procedure. About the same time New York was considering a variation of a procedure for licensing long-gun owners and registering long guns; they came up with the figure of roughly \$20 for doing both, for each long gun—significantly less than the \$75 or \$77 for the restrictive licensing employed in the handgun area. However, a much greater number of persons would be licensed under a nonrestrictive system.

The Bureau of Alcohol, Tobacco and Firearms, as I noted earlier, had estimated some time ago that a Federal system, a Federal nonrestrictive licensing system, might cost on the order of \$100 million—but the various approaches in the bills before your subcommittee vary in cost and it is difficult to estimate. I might say, however, that the essential purpose of a nonrestrictive licensing system is to screen out those individuals who are most likely to misuse firearms. That screening can be done by other techniques, such as the system incorporated in the Departments of Justice and Treasury bill which would require ascertainment that the individual did not have a felony record at the time he tried purchasing the handgun. If the bill were extended, as you are suggesting, to private sales as well, that would provide a screening technique for all purchasers of weapons without the problems inherent in a licensing system per se.

Senator BAYH. The kind of licensing provision that appeals to me is where you have the maximum internal investment against carrying a concealed weapon. Those individuals who are stopped and do not have a license—you really ought to nail that down.

## EFFECTIVELY ENFORCE CONCEALED WEAPONS LAWS

Mr. GAINER. That is invaluable for a prosecutor in a community that has laws of that nature. That is something that a good many people fail to appreciate. If an individual is caught redhanded, having committed a robbery or a mugging, in many instances a prosecution simply cannot successfully be brought, even though there is no question in the officer's mind about the guilt of the individual. There may be a technical problem because of a failure to give a full *Miranda* warning or some kind of inadequacy in a search warrant. There may be a death of a witness that makes the case unprosecutable, or intimidation of a witness. In those instances, however, where the individual is

found to be carrying a concealed weapon, at least he can be prosecuted on that charge, and that charge is a very easy one to prove. It is one with a very high conviction rate across the Nation. Especially when it is coupled with proscriptions against plea bargaining and dropping of counts, it can have a material effect on the rate of conviction of persons committing crimes with handguns.

The Department had originally considered a regional approach to the problem of handgun violence, and Senator Javits has suggested a regional approach to this subcommittee this morning. The thought was that with a regional approach, such prohibitions could be imposed in metropolitan areas where the need for such an approach is greatest. But on further examination, it was perceived that in most major metropolitan areas there are already some proscriptions against carrying concealed weapons. If only we could find a means of effectively stopping the illegal traffic going into those metropolitan areas, that, for the first time in this country, would enable the States and localities to enforce effectively the laws that they have now concerning the carrying of concealed weapons. But with the ability of individuals freely to purchase handguns outside the area in which they live and then to take them into the metropolitan area where their possession is proscribed, it is very hard for a State effectively to stem that inflow and to stem the degree of violence that is occasioned by it. It was concluded that a federally required process for local screening of prospective handgun purchasers could help materially to stem that inflow.

Senator BAYH. Let me ask you this—give me your thoughts on another area—what has been the track record of enforcing those laws, such as those that exist in the District of Columbia and elsewhere, as far as carrying a weapon without a license clearly in violation that the law might require? That was question 1.

Question 2: What has been experienced in the Massachusetts law?

Mr. GAINER. As I recall, in the District of Columbia, where the charge of carrying a concealed weapon is the main count—which is the only way the statistics currently pick up the charge—the conviction rate is on the order of 95 percent. We can check those figures for you. There is a locally—

Senator BAYH. Carrying a concealed weapon?

Mr. GAINER. Yes.

Senator BAYH. 95 percent?

Mr. GAINER. 95 percent.

Senator BAYH. What penalties are meted out?

Mr. GAINER. In the first instance, it is more often than not probation.

Senator BAYH. What about the second instance?

Mr. GAINER. I do not recall that. I do not believe that figures are kept on such recidivism in the District of Columbia. If they are, I will be happy to see if we can come up with them.

As to Massachusetts law, I am not acquainted with any studies indicating the effect of that mandatory penalty provision. It went into effect, I believe, in April of this year. The Fox-Bartley bill did add only a mandatory penalty, as I recall, to preexisting handgun proscriptions. The indications are that it appears to be working fairly well. I suppose there are some hard cases coming up with the man-



datory penalty of 1 year's imprisonment being applied, and with plea-bargaining being prohibited, but they have not been such as to create any great public outcry. It would be interesting to see an analysis of that procedure.

Senator BAYH. If you get an analysis I certainly would like to see it. The committee would like to have that.

We appreciate your contribution here this morning. Hopefully we can proceed to nail down some details, refine your approach and ours, and try to get something moving here.

Mr. GAINER. We would be very pleased to work with the subcommittee on this approach.

Senator BAYH. Thank you very much. I appreciate it.

We will recess now, and reconvene these hearings on November 13, 1975, at which time our distinguished ranking minority member, Senator Roman L. Hruska,<sup>1</sup> will chair the hearing in my stead.

[Whereupon, at 12 p.m., the subcommittee recessed to reconvene on November 13, 1975 at 10 a.m. in the Dirksen Office Building.]

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<sup>1</sup> Ed. Note: The above mentioned hearing was cancelled by Senator Hruska; with intents of possible further hearings in April 1976. The agenda of the hearing of November 13, 1975 would have been as follows.

U.S. SENATE,  
SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY,  
*November 6, 1975.*

## NOTICE OF HEARING ON FIREARMS LEGISLATION

### GUN CONTROL HEARING OF NOVEMBER 13, 1975

Mr. BAYH. Mr. President, the Subcommittee To Investigate Juvenile Delinquency, Committee on the Judiciary, will conclude hearings on firearms legislation. The hearing is scheduled for Thursday, November 13, 1975, at 10 a.m. in room 4200, Dirksen Office Building, Washington, D.C. All pending firearms bills before the Subcommittee will be under consideration (S.141, S.142, S.750, S.1447, S.1880, S.2153, and S.2186).

Witnesses for the day include David Caplan and Dr. Ernest Van den Haag, both of New York, N.Y., and Robert J. Kukla of Park Ridge, Illinois. I am particularly interested in the views of these witnesses and look forward to an exchange on the various firearms bills pending before the Subcommittee. I have agreed to have this hearing chaired by the distinguished ranking minority member of the Committee on the Judiciary, Roman L. Hruska.

Anyone interested in this hearing, or desiring to submit a statement for the record should contact John M. Rector, Staff Director and Chief Counsel of the Subcommittee, U.S. Senate, A-504, Washington, D.C. 20510, (202) 224-2951.

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U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C., November 6, 1975.*

DAVID CAPLAN,  
*New York, N.Y.*

DEAR MR. CAPLAN: As you know, the Subcommittee to Investigate Juvenile Delinquency, of which I am Chairman, has been conducting hearings on the effectiveness of the Gun Control Act of 1968 as well as a review of the numerous legislative proposals amending its provisions which are pending before the Subcommittee (S. 141, S. 142, S. 750, S. 1447, S. 1880, S. 2186 and S. 2153).

I have scheduled our final hearing for November 13, 1975, at 10:00 a.m. in Room 4200 Dirksen Office Building, and would be pleased to hear your views at that time on these important concerns. Your participation would be greatly appreciated.

If my staff can be of assistance please contact John M. Rector, Staff Director and Chief Counsel of the Subcommittee, at (202)224-2951 or Eric Hultman, Counsel to Senator Hruska at (202)224-6551.

With warm regards,  
Sincerely,

BIRCH BAYH,  
*Chairman.*

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UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C., November 6, 1975.*

ROBERT J. KUKLA,  
*Park Ridge, Ill.*

DEAR MR. KUKLA: As you know, the Subcommittee to Investigate Juvenile Delinquency, of which I am Chairman, has been conducting hearings on the effectiveness of the Gun Control Act of 1968 as well as a review of the numerous legislative proposals amending its provisions which are pending before the Subcommittee (S. 141, S. 142, S. 750, S. 1447, S. 1880, S. 2186 and S. 2153).

I have scheduled our final hearing for November 13, 1975, at 10:00 a.m. in Room 4200 Dirksen Office Building, and would be pleased to hear your views at that time on these important concerns. Your participation would be greatly appreciated.

If my staff can be of assistance please contact John M. Rector, Staff Director and Chief Counsel of the Subcommittee, at (202)224-2951 or Eric Hultman, Counsel to Senator Hruska at (202)224-6551.

With warm regards,  
Sincerely,

BIRCH BAYH,  
*Chairman.*

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UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C., November 6, 1975.*

DR. ERNEST VAN DEN HAAG,  
*New York, N.Y.*

DEAR DR. VAN DEN HAAG: As you know, the Subcommittee to Investigate Juvenile Delinquency, of which I am Chairman, has been conducting hearings on the effectiveness of the Gun Control Act of 1968 as well as a review of the numerous legislative proposals amending its provisions which are pending before the Subcommittee (S. 141, S. 142, S. 750, S. 1447, S. 1880, S. 2186 and S. 2153).

I have scheduled our final hearing for November 13, 1975, at 10:00 a.m. in Room 4200 Dirksen Office Building, and would be pleased to hear your views at that time on these important concerns. Your participation would be greatly appreciated.

If my staff can be of assistance please contact John M. Rector, Staff Director and Chief Counsel of the Subcommittee, at (202) 224-2951 or Eric Hultman, Counsel to Senator Hruska at (202) 224-6551.

With warm regards,  
Sincerely,

BIRCH BAYH,  
*Chairman.*

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#### TENTATIVE AGENDA

#### HEARINGS ON PROPOSED FIREARMS LEGISLATION

(November 13, 1975, 10 a.m.)

David Caplan, New York, N.Y.  
Dr. Ernest Van Den Haag, New York, N.Y.  
Robert J. Kukla, Park Ridge, Ill.



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## A P P E N D I X

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Additional statements and material supplied for the record

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# PART 1—LEGISLATION AND RELATED MATERIAL

## COMPARATIVE ANALYSIS OF HANDGUN LEGISLATION 94TH CONGRESS, OCTOBER 1975

Subject	Bayh—S. 1880, Title II and III	Fong—S. 2186 (Administration)	Hart—S. 750	Kennedy—S. 1447	Javits—S. 2153
Commercial sales.....	Prohibited for non sporting handguns. Will affect about 53 pct. of handguns currently sold. Exception for research organizations, law enforcement and military personnel.	Prohibited for non sporting handguns. Exception for law enforcement and military personnel.	Prohibited for all handguns except for military, law enforcement, and licensed pistol clubs.	Prohibited for handguns under 6 in. Exception for law enforcement and military personnel.	Prohibited for handguns which are unsuitable for law enforcement, military uses, hunting, sport shooting, or other lawful purposes.
Manufacture.....	Not affected.....	Prohibited for non sporting handguns. No exceptions.	Prohibits all manufacture of handguns except those necessary for law enforcement, military and licensed pistol clubs. Required only for pistol clubs.	Prohibits manufacture of all handguns under 6 in. in length. No exceptions for law enforcement and military manufacture. Required for all handguns and handgun owners including law enforcement and military personnel.	Do.
Licensing and registration.	No requirement.....	No requirement.....	Required only for pistol clubs.		Requires persons possessing handguns to furnish Attorney General with their name, address, social security number, and serial number of such handgun. Also requires such person to notify Attorney General as to the disposition of such handgun.
Private possession.....	Not affected.....	Not affected.....	Prohibited except for licensed pistol clubs.	Prohibited for all handguns under 6 in.	Prohibited for handguns which are unsuitable for law enforcement, military uses, hunting, sports, shooting or other lawful purpose. Residents of certain metropolitan areas are prohibited from possessing any handguns.
Private sale.....	do.....	Prohibited for non sporting handguns.	Prohibited, except for pistol clubs.	do.....	Prohibited for handguns which are unsuitable for law enforcement, military uses, hunting, sports shooting or other lawful purpose. Residents of certain metropolitan areas are prohibited from selling any handgun.

## COMPARATIVE ANALYSIS OF HANDGUN LEGISLATION 94TH CONGRESS, OCTOBER 1975—Continued

Subject	Bayh—S. 1880, Title II and III	Fong—S. 2186 (Administration)	Hart—S. 750	Kennedy—S. 1447	Javits—S. 2153
Waiting period between purchase and receipt of handgun.	Supports, under staff study.	14-day waiting period.	None.	None.	10-day waiting period.
Licensed dealers.	Not affected.	Increased fees and requirements which will reduce number of dealers from 159,000 to 30,000. Increases dealer responsibility for improper sales.	Not affected.	Not affected.	Attorney General to assure that dealers are responsible individuals and legitimately engaged in business.
Additional penalties for use of firearms in the commission of a felony.	1st offense: 5 to 15 yrs unless judge specifically states in writing reasons for not imposing sentence. 2d offense: mandatory 10 to 30 yrs. Provisions for speedy resolution of cases.	1st offense: 1 to 10 yrs. 2d offense: 2 to 25 yrs. Both penalties mandatory.	None.	None.	None.
Illicit gun traffic.	Requires manufacturers, dealers and collectors to report thefts of firearms and circumstances surrounding these thefts. Imposes mandatory penalties on dealers who knowingly sell firearms to felons or who knowingly sell firearms to persons residing outside state in which dealer does business. Imposes mandatory penalties on felons who receive or ship a firearm in interstate commerce.	Prohibits persons from selling handguns to another unless seller has reasonable cause to believe the buyer is not a felon; and is legally entitled to possess a handgun.	Requires pistol clubs to report thefts.	do.	Authorizes Attorney General to establish temporary task force to identify and trace illicit gun traffic.
Multiple sale of handguns to same individual.	Dealer must report all such sales of 2 or more handguns in same 5-day period.	Limits sale or purchase of handguns to 1 every 30 days.	None.	do.	Limits sale of handguns to 1 every calendar year.

Note.—McClure: S. 141: Repeals Gun Control Act of 1968. S. 142: Additional mandatory penalties for use of firearm in commission of a felony; 1st offense, 5 to 10 yrs; 2d offense, 10 yrs to life.

[Extract from Congressional Record, Jan. 15, 1975]

By Mr. McCURE (for himself, Mr. FANNIN, and Mr. GARN):

S. 141. A bill to repeal the Gun Control Act of 1968; and

S. 142. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions, to lower certain age limits from 21 years to 18, and to eliminate certain record-keeping provisions with respect to ammunition. Referred to the Committee on the Judiciary.

Mr. McCURE. Mr. President, on many occasions I have addressed this body regarding the ever-continuing erosion of individual liberties which is taking place in this country. I have often brought to attention the ever-increasing intervention of the Federal Government into the lives of our citizens through the expansion of bureaucracies and the thousands of regulations which they promulgate as a result of the many laws passed here in Congress. One such law which has done nothing but further harass millions of Americans—the Gun Control Act of 1968—remains on the books as an example of a dangerous threat to the basic constitutional right of every American—the right to bear arms. The Gun Control Act of 1968, a law passed at a moment of national hysteria, has proved to have no adverse effect on anyone other than the law-abiding citizen while the crime statistics continue to rapidly rise. Today I am reintroducing a bill to repeal this Gun Control Act.

To possess and use firearms is historically, legally, and constitutionally recognized in this Nation. The second amendment clearly proclaims “the right of the people to keep and bear arms shall not be infringed.” I observe with interest that rarely does anyone argue with the inviolability of the first amendment guaranteeing freedom of speech and the press but yet many times those same champions of the first amendment are often the first to recommend restrictive legislation which moves to disregard those guarantees of the second amendment. Our major television networks all push for more gun controls and even recommended confiscation at times. An FCC Commissioner recently stated that he was convinced of the correlation between violence on the tube and violence in the streets. He was not denying or suggesting to deny the broadcast of such programming but just pointing out a correlation that might well exist and perhaps should be dealt with.

I agree with his observation for it points out that there may be other points to attack in attempts to solve our crime problem than just the firearm. As John R. McClory recently stated in an article on gun control in “Shooting Times”:

“You are treating the symptom, not the cause, by attempting to reduce crime by focusing upon one of the many instruments which may be used to commit a crime. The answer to violent crimes, if one exists, is a change in the attitude of the population—the elimination or sublimation of the desire in any man to injure or kill another.”

Mr. McClory points out that Switzerland “makes every male citizen above the age of 16 a member of the militia and requires that each keep a firearm and ammunition in his home. Yet the incidence of the use of firearms in the commission of crimes in that country is almost nil. The difference is not the availability of weapons but the general sociological attitude toward crime.”

Gun control advocates conveniently forget that crime flourishes when courts are lenient and when controls on police officers hamper effective law enforcement. All of the firearms laws in the world are not going to deter crime until there is a change in attitude toward the role of law enforcement and a rekindling of a universal respect for the laws of the land. I do not minimize for a moment the seriousness of the crime situation in this country. Neither do I minimize the danger of the 1968 gun control laws on our personal liberties or the threat further firearms control can bring as an effort by those who want to disarm the private citizen. I feel it is a myth that no guns means no crime.

The Gun Control Act of 1968 has not worked. It is ineffective in preventing crime as witnessed by the staggering increase in the crime rate that has taken

place within the 7 years this law has been on the books. Crime statistics clearly indicate that it is the cities, not the hunting areas where the misuse of firearms occurs. For example, the FBI reports that in 1973 two-thirds of all robberies occurred in the big cities. These statistics also show that our less densely populated areas have the lowest homicide rate. Coincidentally, these areas usually have the least restrictive laws on the possession of firearms. It is unnecessary to penalize the outdoorsman for the crime-in-the-streets problem that exists elsewhere. Further, it has been proven in many cities that restrictive gun legislation has not solved their problem. John McClory in this article concludes and I agree, that "national firearms legislation that may appear to be a solution to a problem in one part of the country may have no practical application in another." I am convinced, as are many of my fellow Idahoans, that legislation curbing the purchase of guns will neither prevent a man bent on committing a crime from doing so, nor promote safety by disarming the law-abiding citizen.

The laws against ownership of weapons by law-abiding citizens do not reach criminals. Instead, restrictions on ownership and use of firearms discriminate against honest citizens. Often they actually aid the criminal by disarming his victim. So the strongest argument against gun laws is their utter futility in reducing armed crimes. In this country today we do not have a gun problem; we have a crime problem. The FBI in its reports on crime reserve pages upon pages for the explanation of the many ingredients and motivations behind criminal activity—"size, composition and relative stability of the population, climate, education, recreation, religions, characteristics, effective strength and standards of police force, policies of the prosecuting officials and courts, public attitude toward law enforcement problems," to name a few.

One further point of importance is reflected in the cost to the taxpayers of the Gun Control Act of 1968. The Citizens Committee for the Right to Keep and Bear Arms very adeptly pointed this factor out in a letter to the New York Times recently.

In that letter it was pointed out that a repeal of the 1968 Gun Control Act would reduce the financial burden on the taxpayer. This makes commonsense for the tax dollars used in administering an ineffective law during times of great economic stress might be more effectively used elsewhere in the fight against crime.

We in Congress need to take a more practical approach to crime in which a gun is used. The most effective method of deterring crime is to deal swiftly and sternly with criminals. In this light, I am today also reintroducing a bill which provides that the use of a firearm in the commission of any Federal crime is a separate Federal offense. A mandatory sentence of from 5 to 10 years imprisonment would be imposed upon criminals convicted of using a gun while committing a Federal felony. A second conviction would result in a mandatory 10-years-to-life sentence. Courts would neither suspend the sentence nor allow it to run concurrently with any other sentence. In addition, the bill removes registration requirements from certain ammunition. I fully believe that this legislation if enacted will operate as a more effective deterrent to the use of firearms by criminals than all the rules and regulations which have emanated from the Gun Control Act of 1968.

Idaho led the fight against gun controls back in 1968, and time has proven us right. Existing laws are little more than harassment of honest citizens. Crime statistics, where a gun is involved, are no lower. It is time to shift this burden from the shoulders of the lawful to the criminal.

94TH CONGRESS  
1ST SESSION

# S. 141

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## IN THE SENATE OF THE UNITED STATES

JANUARY 15, 1975

Mr. McCLURE (for himself, Mr. FANNIN, and Mr. GARN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To repeal the Gun Control Act of 1968.

- 1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That chapter 44 of title 18 of the United States Code  
4       known as the Gun Control Act of 1968, is hereby and the  
5       same is repealed.

VII—O



94TH CONGRESS  
1ST SESSION

# S. 142

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## IN THE SENATE OF THE UNITED STATES

JANUARY 15, 1975

Mr. McCLURE (for himself, Mr. FANNIN, and Mr. GARN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions, to lower certain age limits from twenty-one years to eighteen, and to eliminate certain recordkeeping provisions with respect to ammunition.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That section 924 (c) of title 18 of the United States Code  
4       is amended to read as follows:

5       “(c) Whoever—

6               “(1) uses any firearm to commit a felony with  
7       respect to which the district courts of the United States  
8       have original and exclusive jurisdiction under section

1        3231 of this title, or carries a firearm during the com-  
2        mission of any such felony, or

3            “(2) uses any firearm transported in interstate or  
4        foreign commerce or affecting such commerce to com-  
5        mit, or carries such a firearm unlawfully during the  
6        commission of any crime punishable by imprisonment  
7        for a term exceeding one year, and is convicted of such  
8        crime in a court of any State,

9        shall, in addition to the punishment provided for the com-  
10       mission of such felony or crime, be sentenced to a term of  
11       imprisonment for not less than five years, nor more than  
12       ten years. In the case of his second or subsequent conviction  
13       under this subsection, such person shall be sentenced to im-  
14       prisonment for any term of years not less than ten, or to  
15       life imprisonment. Notwithstanding any other provision of  
16       law, the court shall not suspend the sentence in the case of  
17       any person convicted under this subsection, or give him a  
18       probationary sentence, nor shall the term of imprisonment  
19       imposed under this subsection run concurrently with any  
20       term of imprisonment imposed for the commission of such  
21       felony or crime.”

22        SEC. 2. Title 18 of the United States Code is amended—

23            (1) in section 922 (c) (1) by striking out all after  
24        “I swear that” up to, but not including “I am eighteen  
25        years or more of age.”;

1           (2) by striking out, "twenty-one years" wherever  
2       it appears in such chapter, and inserting in lieu thereof,  
3       "eighteen years"; and  
4           (3) in section 922 (b) (5) by striking out "or  
5       ammunition".

[Extract from the Congressional Record, Feb. 19, 1975]

By Mr. PHILIP A. HART:

S. 750. A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns, except for or by members of the Armed Forces, law enforcement, officials and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, antique collectors, and pistol clubs. Referred to the Committee on the Judiciary.

#### HANDGUN CONTROL ACT OF 1975

Mr. PHILIP A. HART. Mr. President, I introduce today a bill which would limit handgun ownership to law enforcement officers and security guards.

Other handguns, with a few exceptions, would be bought at fair value by the Government and destroyed. Fair value can be generally interpreted to mean the price that a handgun would bring in the open market on the day before the bill is enacted. The measure would not affect rifles and shotguns.

The bill reflects my conclusion—and the conclusion of the 1969 National Commission on the Causes and Prevention of Violence—the Eisenhower Commission—of which I was a member, that the Nation has little chance of curbing violent crime until handguns are no longer readily available to all corners.

Handgun control is difficult to institute here simply because we are one of the few nations in the world with a great many handguns in circulation among people accustomed to having them.

One hundred years ago, handgun control would have been relatively easy. Few people owned them, even—despite what the cowboy movies tell us—in the wild West.

Sixty years ago, it would have been relatively easy to ban cigarettes. Few people smoked them. But now too many in the Nation are hooked. And, in the same sense, we are hooked on handguns.

There are now an estimated 40 to 50 million handguns in the country and that figure is nearly twice as great as the 25 million cited when this bill was first introduced in 1971.

Further, the number of people who were murdered by handguns each year continues to increase. The National Council for Control of Handguns says that in 1972 handguns were used in 9,750 murders. In 1973 that figure increased to 10,340.

There are two premises for my handgun bill.

First. We must eventually dry up the vast reservoir of handguns easily accessible to criminals through thefts, burglary, and cheap secondhand commercial traffic.

Second. Even to the extent that criminals would still have weapons, the hard facts indicate, contrary to common belief, that the rest of us are safer if we do not have handguns. The bulk of homicides committed each year—not to mention serious woundings or fatal accidents—do not involve criminals attacking strangers, but rather involve altercations between acquaintances.

#### DO THEY OFFER SOUND PROTECTION?

Most citizens owning handguns imagine these weapons to be sound home protection devices. But no serious study of handgun use—and there have been many—has concurred in this notion.

Only in a very, very tiny percentage of cases are they ever successfully used against burglars or home robbers—simply because burglars seldom enter an occupied house and bandits can easily get the drop on any householders who does not walk around the house with a gun in his hand.

If you open a door to a bandit's knock, then he will have you covered when he enters. If he sneaks in through an open door or window, the householder still has no chance to go for his weapon.

Conceivably, a householder might have time to arm himself if bandits take minutes to force their way in. But even in that unlikely circumstance, would not the householder be as well off with a shotgun in his hands as a pistol?

Studies in Detroit and Los Angeles shows that only 2 percent of home robberies and 1 percent of home burglaries result in the intruder being shot by the householder. These studies are detailed in "Firearms and Violence in American Life," volume 7 of the staff reports to the National Commission on the Causes and Prevention of Violence.

For this minimal protection against intruders, Americans are paying a high price in the killing and wounding—both accidental and deliberate—of family members, friends, and acquaintances.

Most American homicides do occur in the home and the handgun is the usual instrument, because it is handy and is most often kept loaded.

Another study described in the Violence Commission staff report demonstrated that 71 percent of all killings in Chicago involved relatives, friends, and neighbors. Almost always, the attacks were generated by spontaneous rage and the attacker was not necessarily determined to kill.

We have all seen a headline about the homeowner or shopkeeper who shoots a robber. But, in fact, handguns are rarely used successfully by law-abiding citizens. They are far more likely to be used in a quarrel among friends or relatives—with tragic results.

Almost every handgun ever used in a criminal act was at one time owned by an honest citizen.

Inescapably, we learn that those millions of "honest" handguns provide the reservoir that keeps the criminal arsenals full. The reason handguns are so easily available to criminals is simply because handguns are everywhere.

Handguns in honest hands get into the streets through burglaries, thefts, pawns, loans, and, sometimes, sales.

Contrary to popular belief, it is not the usual practice for a criminal to contemplate a crime and then go looking for a gun.

Far more often, offenders commit crimes only after they find themselves with the capacity to intimidate a victim. In other words, there is solid evidence that firearms generate violent crime.

The great pool of "honest" handguns is constantly leaking into the hands of those who have criminal tendencies, but lack the weapons to intimidate.

The last catch basin for these guns is the police, who are constantly confiscating and destroying criminal weapons but never fast enough to catch up with the new supply. Meanwhile, the new supply is inspiring new violence.

#### WHY JUST HANDGUNS

Handguns represent the major threat to our society's safety.

The handgun is the favorite criminal weapon for the most obvious of reasons. It is light, cheap, readily concealable and can be easily whipped out of a coat pocket.

Long guns, on the other hand, meet none of these tests. True, they can represent a threat to safety but they have a great many wholesome purposes. And they are certainly not designed primarily for the killing and wounding of humans.

Since most long gun killings and woundings are accidental, probably the most effective way of making them more harmless would be State-sponsored safety training programs for young hunters similar to safety training programs we have for young drivers.

#### HOW LONG WOULD IT TAKE TO DRY UP HANDGUNS?

Even if the bill were to pass tomorrow, it would doubtless take many years to achieve the desired results.

Let us face it—success will depend heavily on citizen appreciation of the fact that handguns are an unacceptable element in our society.

The bill provides a moratorium period of 180 days for citizens to sell handguns to the Government. After that, any unauthorized person with a handgun in his possession would be subject to a jail term of 5 years and/or a maximum fine of \$5,000.

But how quickly handguns can be collected will certainly depend heavily on whether citizens study all the facts and willingly reach the same conclusions that I have.

#### WHO WOULD GET EXEMPTIONS?

Handguns would be allowed to police and licensed security guards. Target shooting clubs would be allowed to own handguns if they were stored in a secure place or at a police station.

Antique guns—those manufactured before 1890—would be exempted along with some more modern weapons judged to be collector's items.



Certainly the banning of handguns is not an issue without a vocal opposition.

From time to time, this bill is challenged as unconstitutional with someone, usually in a letter, citing the second amendment to the Constitution, which reads:

"A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

The right of the people to keep and bear arms has always been closely tied to the right of each State to maintain and arm a militia, now called the National Guard.

When the second amendment was drafted, the militia was made up of all our able-bodied men. When called for service, they were expected to provide their own weapons, something no longer required.

The Founding Fathers remembered that the British had stopped the colonial militias from arming themselves and wanted to make sure the Federal Government would not do the same thing.

The Supreme Court has held that firearms regulation is not unconstitutional unless it impairs the effectiveness of the militia.

In 1939, the Court found that the amendment was enacted with the "obvious purpose to assure the continuation and render possible the effectiveness of the militia. It must be interpreted and applied with that end in mind."

Now that is a strict interpretation of the Constitution. A "loose" interpretation of the second amendment, on the other hand, would prevent Congress from regulating even weapons such as machine-guns, bazookas, and grenades.

And if the "right to bear arms" were construed as an absolute individual right, then Congress would be unable to protect society by disarming insane persons and convicted mobsters.

So we might argue about how much "infringement" there should be, but I do not believe it is valid to claim that any infringement is unconstitutional.

#### WOULD AN EFFECTIVE HANDGUN BAN STOP KILLINGS?

Some of these who write in make the point that guns are harmless in themselves, that they are only harmless pieces of machinery until picked up by the hostile hand.

Very often, I see the phrase: "Guns do not kill people, people kill people."

This is occasionally followed by the statement:

"If a man wants to kill someone, he will find a way to do it whether he has a gun or not. So why bother to take away guns?"

It is true that people kill people but, I would have to add that handguns make the job a great deal easier—and possibly more tempting. And does not Government have some responsibility to make it as difficult as possible for people to kill each other?

Indeed, the fact remains that a handgun makes it easy to approach a victim without immediately alarming him and they allow deadly attacks to be made by persons who are unable physically or psychologically to overpower their victims through violent physical contact.

It is certainly not surprising that handguns are presently the favorite weapons for attacks on police.

The policeman himself is capable of defending against many forms of attack. He is trained and equipped to ward off attacks with blunt instruments, knives, or fists. And if surprised at close range, his firearm is usually enough to overcome an attacker.

Therefore, clearly it is the handgun's capacity to deal instant death from a distance that threatens police lives. And a handgun provides the attacker with the additional element of surprise.

From the beginning in 1971, we have said that the success of this handgun bill, or any other, would depend on citizen willingness to acknowledge that handguns are a totally unacceptable element in our society.

At an annual rate of about 10,000 a year, some 30,000 people have been murdered by handguns since the bill was first introduced in 1971.

Although those statistics are the obvious reason for continuing concern, we can point to a few small gains in public attention on handguns.

In a press conference this morning two men who were the highest ranking police officials from two major U.S. cities repeated their concerns about handguns.

Patrick Murphy, former police commissioner of New York City and Detroit, and Jerry V. Wilson, former chief of police for the District of Columbia, explained their support of a national ban on handguns.

In that same press conference, the Honorable Abraham D. Beame, mayor of New York City, urged passage of Federal legislation. He noted that in spite of the toughest gun laws in the Nation, gun traffic in New York City could not be restricted as long as gun laws in other States made the weapons easily available.

Mayor Beame also reiterated the U.S. Conference of Mayors support of a Federal handgun control law.

There are others who believe private citizens should not own handguns. In 1972 the Chicago City Council and Mayor Daley endorsed this bill.

The list also includes Police Commissioner De Grazia of Boston, and Sheriff Peter J. Pitches of Los Angeles, who has served as an FBI firearms instructor and was Vice Chairman of the last Federal Crime Commission.

That Federal Commission, most often called the Peterson Commission, in its report said:

"The private possession of handguns should be prohibited for all persons others than law enforcement and military personnel . . . Existing handguns should be acquired by government agencies . . ."

This Commission established by the Justice Department included nationally recognized law enforcement and criminal justice experts.

Although the Commission did not recommend an immediate national ban on handguns, it did recommend that by 1984 that should be the goal on a State by State basis.

Their case was well stated in this remark:

"All of the argument against prohibiting the private possession of handguns become, by comparison, subordinate to the death, tragedy and violence that abound in the absence of such legislation."

As public discussion of handguns continues, we can hope that beyond the statistics, more people will understand that a family's safety is, in fact, diminished by the presence of a gun in the household.

We can hope that more will come to understand that with a handgun in a household it is most likely to be used in a quarrel among friends, neighbors, or relatives with tragic consequences for normally law-abiding citizens—and that handguns are rarely successfully used by citizens as protection against criminals.

And finally we can hope for an understanding that safety is a relative thing and we will never be relatively safe as long as there are 40 to 50 million handguns out there waiting.

94TH CONGRESS  
1ST SESSION

# S. 750

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 19, 1975

MR. PHILIP A. HART introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To prohibit the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, antique collectors, and pistol clubs.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*  
3        That this Act may be cited as the "Handgun Control Act  
4        of 1975".

5        SECTION 1. The Congress hereby finds and declares—

6                (a) that annual sales of handguns in the United  
7        States have risen sharply in the last decade, bringing  
8        the total number of handguns in private hands to ap-

II

## 2

1       proximately twenty-four million by the end of 1968;  
2       and

3           (b) that handguns play a major role, and a role dis-  
4       proportionate to their number in comparison with long  
5       guns, in the commission of homicide, aggravated assault,  
6       and armed robbery, and that the percentage of violent  
7       crimes in which handguns are used is increasing; and

8           (c) that most homicides are committed in alterca-  
9       tions between relatives, neighbors, or other acquaint-  
10      ances, rather than in a confrontation between strangers;  
11      and

12          (d) that handguns in the home are of less value  
13      than is commonly thought in defending against in-  
14      truders, and are more likely to increase the danger of  
15      a firearm fatality to the inhabitants than to enhance  
16      their personal safety; and

17          (e) that with few exceptions, handguns are not  
18      used for sporting or recreational purposes and that such  
19      purposes do not require keeping handguns in private  
20      homes; and

21          (f) that more than one-half of all handguns are  
22      acquired secondhand and that licensing and restrictions  
23      on sale of new handguns will not significantly reduce  
24      handgun crime and handgun violence; and

25          (g) that violent crimes perpetrated with handguns

1       constitute a burden upon and interfere with interstate  
2       and foreign commerce and threaten the internal secu-  
3       rity and domestic tranquillity of the Nation; and

4               (h) that fear of firearms crimes discourages citizens  
5       from traveling between the States to conduct business or  
6       to visit the Nation's Capital; and

7               (i) that crimes committed with guns have disrupted  
8       our national political processes, and threaten the repub-  
9       lican form of government within the States as guaran-  
10      teed by article IV of the Constitution; and

11              (j) that a national firearms policy which restricts  
12      the availability of handguns for non-law-enforcement and  
13      nonmilitary purposes will significantly reduce violent  
14      crime, reduce deaths from handguns, and reduce other  
15      handgun violence in the United States.

16       SEC. 2. Title 18, United States Code, is amended by  
17      inserting immediately after chapter 50 thereof the following  
18      new chapter:

19                               **"Chapter 50A—HANDGUNS**

"Sec.

"1091. Unlawful acts.

"1092. Licensing.

"1093. Penalties.

"1094. Exceptions.

"1095. Voluntary delivery to law enforcement agency; reimbursement.

"1096. Rules and regulations.

"1097. Effect on State law.

"1098. Separability clause.

"1099. Appropriations.

"1100. Definitions.



1   **“§ 1091. Unlawful acts**

2       “(a) Except as provided in section 1094 of this  
3 chapter and in subsection (c) of this section, it shall be un-  
4 lawful for any person to import, manufacture, sell, buy,  
5 transfer, receive, or transport any handgun and handgun  
6 ammunition.

7       “(b) Except as provided in section 1094 of this chap-  
8 ter and in subsection (c) of this section, it shall be unlawful  
9 after one hundred and eighty days from the effective date of  
10 this chapter for any person to own or possess any handgun  
11 or handgun ammunition.

12       “(c) The Secretary may, consistent with public safety  
13 and necessity, exempt from the operation of subsection (a)  
14 and subsection (b) of this section such importation, manu-  
15 facture, sale, purchase, transfer, receipt, possession, owner-  
16 ship, or transportation of handguns and handgun ammunition  
17 by importers, manufacturers or dealers, licensed under chap-  
18 ter 44 of this title, and by pistol clubs licensed under this  
19 chapter, as may in his judgment be required for the operation  
20 of such pistol clubs or for purposes in section 1094 of this  
21 chapter.

22       “(d) It shall be unlawful for any licensed importer,  
23 manufacturer, or dealer to sell or otherwise transfer any hand-  
24 gun or handgun ammunition to any person, except another

1 licensed importer, manufacturer, or dealer, without presenta-  
2 tion by the purchaser or recipient of written verification that  
3 the receipt or purchase is being made by or on behalf of a  
4 person or government agency eligible to obtain and possess  
5 handguns under section 1094 of this chapter or a pistol club  
6 licensed under this chapter.

7 “(e) Every manufacturer, importer, and dealer who  
8 sells or otherwise transfers handguns or handgun ammuni-  
9 tion shall maintain records of sale or transfer of handguns  
10 and handgun ammunition in such form as the Secretary  
11 may by regulations provide and shall permit the Secretary  
12 to enter the premises at reasonable times for the purpose  
13 of inspecting such records.

14 **“§ 1092. Licensing**

15 “(a) A pistol club desiring to be licensed under this  
16 chapter shall file an application for such license with the  
17 Secretary. The application shall be in such form and contain  
18 such information as the Secretary shall by regulation pre-  
19 scribe. The fee for such license shall be \$25 per year.

20 “(b) Any importer, manufacturer, or dealer desiring to  
21 be licensed under this chapter shall apply as provided in  
22 chapter 44 of this title.

23 “(c) Any application submitted under subsection (a)  
24 shall be approved if—

## 6

1           “(1) no member of the pistol club is a person  
2       whose membership and participation in the club is in  
3       violation of any applicable State laws;

4           “(2) no member of the pistol club is prohibited  
5       from transporting, shipping, or receiving firearms or  
6       ammunition in interstate or foreign commerce under  
7       section 922 (g) or (h) of this title;

8           “(3) no member of the pistol club has willfully  
9       violated any of the provisions of this chapter or of chap-  
10      ter 44 of this title or any regulations issued thereunder;

11          “(4) the pistol club has not willfully failed to dis-  
12      close any material information required, or has not  
13      made any false statement as to any material fact in  
14      connection with its application;

15          “(5) the club has been founded and operated for  
16      bona fide target or sport shooting and other legitimate  
17      recreational purposes; and

18          “(6) the pistol club has premises from which it  
19      operates and—

20               “(A) maintains possession and control of the  
21      handguns used by its members, and

22               “(B) (i) has procedures and facilities for keep-  
23      ing such handguns in a secure place, under the con-  
24      trol of the club’s chief officer, at all times when they

1           are not being used for target shooting or other sport-  
2           ing or recreational purposes, or

3           “(ii) has effected arrangements for the storage  
4           of the members’ handguns in a facility of the local  
5           police department or other nearby law enforcement  
6           agency.

7           “(d) (1) The Secretary must approve or deny an ap-  
8           plication for a license with the sixty-day period beginning  
9           on the date it is received. If the Secretary fails to act within  
10          such period, the applicant may file an action under section  
11          1361 of title 28 to compel the Secretary to act. If the Sec-  
12          retary approves an applicant’s application, such applicant  
13          shall be issued a license upon payment of the prescribed fee.

14          “(2) The Secretary may, after notice and opportunity  
15          for hearing, revoke any license issued under this section if  
16          the holder of such license has violated any provision of this  
17          chapter or of chapter 44 of this title or any rule or regula-  
18          tions prescribed by the Secretary under such chapters. The  
19          Secretary’s action under this paragraph may be reviewed  
20          only as provided in subsection (e) of this section.

21          “(e) (1) Any person whose application for a license  
22          is denied and any holder of a license which is revoked shall  
23          receive a written notice from the Secretary stating specifi-  
24          cally the grounds upon which the application was denied or  
25          upon which the license was revoked. Any notice of revoca-

1 tion of a license shall be given to the holder of such license  
2 before the effective date of the revocation.

3 “(2) If the Secretary denies an application for, or  
4 revokes, a license, he shall, upon request by the aggrieved  
5 party, promptly hold a hearing to review his denial or revo-  
6 cation. In the case of a revocation of a license, the Secretary  
7 shall upon the request of the holder of the license stay the  
8 effective date of the revocation. A hearing held under this  
9 paragraph shall be held at a location convenient to the  
10 aggrieved party.

11 “(3) If after a hearing held under paragraph (2) the  
12 Secretary decides not to reverse his decision to deny an  
13 application or revoke a license, the Secretary shall give  
14 notice of his decision to the aggrieved party. The aggrieved  
15 party may at any time within sixty days after the date notice  
16 was given under this paragraph file a petition with the  
17 United States district court for the district in which he  
18 resides or has his principal place of business for a judicial  
19 review of such denial or revocation. In a proceeding con-  
20 ducted under this subsection, the court may consider any  
21 evidence submitted by the parties to the proceeding. If the  
22 court decides that the Secretary was not authorized to deny  
23 the application or to revoke the license, the court shall order  
24 the Secretary to take such action as may be necessary to  
25 comply with the judgment of the court.



1       “(f) Each licensed pistol club shall maintain such rec-  
2       ords of receipt, sale, or other disposition, of handguns at such  
3       place, for such period, and in such form as the Secretary  
4       may by regulations prescribe. Such pistol clubs shall make  
5       such records available for inspection at all reasonable times  
6       and shall submit to the Secretary such reports and informa-  
7       tion with respect to such records and the contents thereof as  
8       he shall by regulations prescribe. The Secretary may enter at  
9       reasonable times the premises (including places of storage)  
10      of any pistol club for the purpose of inspecting or examining  
11      (1) any records of documents required to be kept by such  
12      pistol club under the provisions of this chapter or chapter 44  
13      of this title and regulations issued under such chapters, and  
14      (2) any handguns or ammunition kept or stored by such  
15      pistol club at such premises.

16       “(g) Licenses issued under the provisions of subsection  
17      (c) of this section shall be kept posted and kept available  
18      for inspection on the premises covered by the license.

19       “(h) The loss or theft of any firearms shall be re-  
20      ported by the person from whose possession it was lost or  
21      stolen, within thirty days after such loss or theft is dis-  
22      covered, to the Secretary. Such report shall include such  
23      information as the Secretary by regulation shall prescribe,  
24      including, without limitation, the date and place of theft  
25      or loss.

1   **“§ 1093. Penalties**

2       “(a) Whoever violates any provision of section 1091  
3 of this chapter shall be fined not more than \$5,000, or im-  
4 prisoned not more than five years, or both, and shall be-  
5 come eligible for parole as the Board of Parole shall  
6 determine.

7       “(b) Whoever knowingly makes any false statement  
8 or representation with respect to the information required  
9 by the provisions of this chapter to be kept in the records  
10 of an importer, manufacturer, dealer, or pistol club, licensed  
11 under this chapter, or in applying for a pistol club license  
12 under the provisions of this chapter, shall be fined not more  
13 than \$5,000, or imprisoned not more than five years, or  
14 both, and shall become eligible for parole as the Board of  
15 Parole shall determine.

16       “(c) Any handgun or handgun ammunition involved  
17 or used in, or intended to be used in, any violation of the  
18 provisions of this chapter or chapter 44 of this title or any  
19 rule or regulation promulgated thereunder, or any violation  
20 of any other criminal law of the United States, shall be sub-  
21 ject to seizure and forfeiture and all provisions of the Inter-  
22 nal Revenue Code of 1954 relating to the seizure, forfeiture,  
23 and disposition of firearms shall, so far as applicable, extend  
24 to seizure and forfeitures under the provisions of this chapter.

25       “(d) Except as provided in subsection (b), no infor-

1 mation or evidence obtained from an application or certi-  
2 cate of registration required to be submitted or retained by  
3 a natural person in order to comply with any provision of  
4 this chapter or regulations issued by the Secretary shall be  
5 used, directly or indirectly, as evidence against that person  
6 in a criminal proceeding with respect to a violation of law  
7 occurring prior to or concurrently with the filing of the  
8 application for registration containing the information or  
9 evidence.

10 **“§ 1094. Exceptions**

11 “(a) The provisions of this chapter shall not apply with  
12 respect to the importation, manufacture, sale, purchase,  
13 transfer, receipt, or transportation of any handgun or hand-  
14 gun ammunition which the Secretary determines is being  
15 imported or manufactured for, sold, or transferred to, pur-  
16 chased, received, owned, possessed, or transported by, or  
17 issued for the use of—

18 “(1) a professional security guard service which is  
19 licensed by the State in which the handgun is to be  
20 used, and which is authorized to provide armed security  
21 guards for hire; or

22 “(2) the United States or any department or  
23 agency thereof or any State or any department, agency,  
24 or political subdivision thereof.

25 “(b) Every security guard service purchasing, receiv-

1 ing, owning, possessing, or transporting handguns under sub-  
2 section (a) shall maintain records of receipt, sale, owner-  
3 ship, and possession of handguns in such form as the Secre-  
4 tary may provide and permit the Secretary to enter the prem-  
5 ises at reasonable times for the purpose of inspecting such  
6 records.

7 “(c) The provisions of this chapter shall not apply  
8 with respect to the importation, sale, purchase, transfer,  
9 receipt, or transportation of a handgun manufactured be-  
10 fore 1890, or any other handgun which the Secretary de-  
11 termines is unserviceable, not restorable to firing condition,  
12 and intended for use as a curio, museum piece, or collectors’  
13 item.

14 **“§ 1095. Voluntary delivery to law enforcement agency;**  
15 **reimbursement**

16 “(a) A person may at any time deliver to any Fed-  
17 eral, State, or local law enforcement agency designated by  
18 the Secretary a handgun owned or possessed by such per-  
19 son. The Secretary shall arrange with each agency desig-  
20 nated to receive handguns for the transfer, destruction, or  
21 other disposition of all handguns delivered under this  
22 section.

23 “(b) Upon proof of lawful acquisition and ownership  
24 by a person delivering a handgun to a law enforcement  
25 agency under this section, within one hundred and eighty

1 days of the effective date of this chapter, the owner of the  
2 handgun shall be entitled to receive from the United States a  
3 payment equal to the fair market value of the handgun or  
4 \$25, whichever is more. The Secretary shall provide for the  
5 payment, directly or indirectly, through Federal, State, and  
6 local law enforcement agencies, of the amounts to which  
7 owners of handguns delivered under this section are entitled.

8 “(c) The amounts authorized in subsection (b) of this  
9 section shall be paid out of the fees collected under section  
10 1092 (a) of this chapter to the extent that such fees are  
11 sufficient for this purpose. The remainder of amounts au-  
12 thorized in subsection (b) of this section shall be paid out  
13 of general revenues.

14 **“§ 1096. Rules and regulations**

15 “(a) The Secretary may prescribe such rules and reg-  
16 ulations as he deems necessary to carry out the provisions  
17 of this chapter.

18 **“§ 1097. Effect on State law**

19 “No provision of this chapter shall be construed as  
20 indicating an intent on the part of the Congress to occupy  
21 the field in which such provision operates to the exclusion  
22 of the law of any State on the same subject, unless there is  
23 a direct and positive conflict between such provision and  
24 the law of the State so that the two cannot be reconciled  
25 or consistently stand together.



1   **“§ 1098. Separability**

2       “If any provision of this chapter or the application there-  
3 of to any person or circumstance is held invalid, the re-  
4 mainder of the chapter and the application of such provision  
5 to other persons not similarly situated or to other circum-  
6 stances shall not be affected thereby.

7   **“§ 1099. Assistance to the Secretary**

8       “When requested by the Secretary, Federal departments  
9 and agencies shall assist the Secretary in the administration  
10 of this title.

11   **“§ 1100. Appropriations**

12       “There are authorized to be appropriated such sums as  
13 are necessary to carry out the purposes of this chapter.

14   **“§ 1101. Definitions**

15       “As used in this chapter—

16       “(1) The term ‘person’ and the term ‘whoever’ include  
17 any individual, corporation, company, association, firm part-  
18 nership, club, society, or joint-stock company.

19       “(2) The term ‘importer’ means any person engaged in  
20 the business of importing or bringing handguns into the  
21 United States for purposes of sale or distribution; and the  
22 term ‘licensed importer’ means any such person licensed  
23 under the provisions of chapter 44 of this title.

24       “(3) The term ‘manufacturer’ means any person en-

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1 gaged in the manufacture or assembly of handguns for the  
2 purposes of sale or distribution; and the term 'licensed manu-  
3 facturer' means any such person licensed under the provisions  
4 of chapter 44 of this title.

5 “(4) The term 'dealer' means (A) any person engaged  
6 in the business of selling handguns at wholesale or retail,  
7 (B) any person engaged in the business of repairing hand-  
8 guns or of making or fitting special barrels, or trigger mech-  
9 anisms to handguns, or (C) any person who is a pawn-  
10 broker. The term 'licensed dealer' means any dealer who is  
11 licensed under the provisions of chapter 44 of this title.

12 “(5) The term 'fair market value' means the prevailing  
13 price on the open market for such weapons immediately prior  
14 to enactment or at the time of voluntary transfer under sec-  
15 tion 1095 of this chapter, whichever is higher, the method  
16 of establishing such prices to be prescribed by the Secretary  
17 in accordance with his authority under section 1096.

18 “(6) The term 'Secretary' or 'Secretary of the Treasury'  
19 means the Secretary of the Treasury or his delegate.

20 “(7) The term 'handgun' means any weapon—

21 “(A) designed or redesigned, or made or remade,  
22 and intended to be fired while held in one hand;

23 “(B) having a barrel less than ten inches in length;  
24 and

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1           “(C) designed or redesigned, or made or remade,  
2           to use the energy of an explosive to expel a projectile  
3           or projectiles through a smooth or rifled bore.

4           “(8) The term ‘handgun ammunition’ means ammu-  
5           nition or cartridge cases, or bullets designed for use primarily  
6           in handguns.

7           “(9) The term ‘pistol club’ means a club organized for  
8           target shooting with handguns or to use handguns for sport-  
9           ing or other recreational purposes.

10          “(10) The term ‘licensed pistol club’ means a pistol  
11          club which is licensed under this chapter.”

12          SEC. 3. The enforcement and administration of the  
13          amendment made by this Act shall be vested in the Secre-  
14          tary of the Treasury.

15          SEC. 4. Nothing in this Act or the amendment made  
16          thereby shall be construed as modifying or affecting any  
17          provisions of—           •

18               (a) the National Firearms Act (chapter 53 of the  
19               Internal Revenue Code of 1954) ;

20               (b) section 414 of the Mutual Security Act of 1954  
21               (22 U.S.C. 1934), as amended, relating to munitions  
22               control; or

23               (c) section 1715 of title 18, United States Code,  
24               relating to nonmailable firearms.

25          SEC. 5. The provisions of this Act shall take effect one  
26          hundred and eighty days following the date of enactment.

[Extract from the Congressional Record, Apr. 17, 1975]

By Mr. KENNEDY (for himself and Mr. STEVENSON) :

S. 1447. A bill entitled the "Federal Handgun Control Act of 1975." Referred to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, along with Senator Stevenson, I am introducing the Federal Handgun Control Act of 1975. This legislation is designed to provide effective controls to stem the violent tide of handgun deaths in this country.

The litany of tragedies caused by the easy access to handguns is spelled out daily in papers across the country. Senator Stevenson and I are convinced that the senseless killing caused by handguns must be halted. For that reason I intend to work diligently for passage of this important legislation.

Mr. President, I am pleased to introduce the Federal Handgun Control Act of 1975. This bill has been designed to effectively curb the violence, the deaths, and the injuries that are caused by excessive numbers of handguns in the civilian society.

My bill requires:

First. The registration of all handguns:

Second. Licensing of all handgun owners; and

Third. A ban on the domestic manufacture, distribution, and sale of all handguns with a barrel less than 6 inches in length.

In past years, I have consistently introduced legislation to control all civilian owned firearms, both handguns and long guns. Yet, despite the overwhelming statistical demand for effective controls, neither the Congress nor the administration has acted decisively to curb firearms violence. Each year, the Nation's morgues receive more and more bullet-torn bodies.

In 1973, about 21,000 Americans died from gunfire. During 1974, the gun death tally rose to 25,000. And during 1975, we can expect that 26,000 to 27,000 Americans will be killed by gunfire. All firearms are lethal and potentially dangerous. But the national toll of gun deaths clearly shows that handguns disproportionately account for an uncommon percentage of gun deaths. Nationwide handguns accounts for 54 percent of all murders. Yet, handguns number less than 20 percent of all firearms in civilian hands.

It is because of this vastly disproportionate relationship that I seek to enact legislation that is designed to primarily focus upon the problems caused by too many handguns. Handguns are clearly the biggest single source of the firearms problem in America. And I intend to work diligently for a firearms control system that can eliminate the problems they cause.

Even though handguns account for 54 percent of all murders, these small deadly devices of infamy that we hear about so much in these times, are as easy to buy as flashlights. Strong and effective restraints against the easy availability of handguns are the best insurance against more violence. Any weapon that has no valid justification beyond its use in crime should be strictly controlled. My interest in the need for effective firearms legislation goes back at least to 1963. I have introduced firearms bills in the Senate on several occasions. I offered gun control amendments to pending legislation on the Senate floor. I have observed much of the testimony presented by nearly 200 witnesses, during more than 40 days of hearings on gun control since I have been in the Senate.

The issues never change. The arguments never vary. The statistics never recede.

In 1963, handgun murders totaled 4,200. Eleven years later in 1974, handguns were used to murder 11,000 Americans. The tragic toll of handgun suicides and accidental handgun deaths pushes the annual figures well beyond reasonable limits for a society that claims to revere life and personal security.

There are many in this Nation who simplistically assume "that more is better" for America. But I am sure that no one wants the annual increase in handgun deaths to be viewed as "typically American."

Gun manufacturers produce more guns each year, and American gun deaths increase right along with the output of firearms. Critical observers like Robert Sherrill in "The Saturday Night Special," warn the Nation to arrest the headlong rush to the horrible logical conclusion that this trend suggests. As more and more of our loved ones and neighbors are killed with guns, each American is provoked or frightened into buying a gun for protection against other gun owners. If we as legislators fail to realize that the current toll of



gun deaths is morally and socially excessive and must be curbed by law, we will have failed in our responsibility to insure the safety of the citizens of our Nation.

Lobbyists for the gun interests insist that new laws are not required. They demand that violators of existing gun laws be punished severely and swiftly. Punishment would deter gun violence, according to that claim.

Advocates for stronger controls, want to limit the massive output of guns. Many of them are alarmed to learn that handgun production rose from 568,000 in 1968 to 2.5 million in 1974.

For handgun manufacturers these may be profitable totals. But any gain from the profit of handgun output is sorrowfully overcome by the wanton abuse made possible by too many guns in civilian hands.

When our high schools must be policed against armed students, it is clear our society makes it too easy to obtain a handgun.

When jobless people can rent a weapon to hijack a taxi or rob a bank, the handgun industry has overproduced.

Seven years ago, I heard a member of the Chicago police force insist that young people who want laws changed must seek change through the due process of law. Our system of government he said, responds when change is necessary, and the proper way to make it respond is through legislative action, not through street demonstrations.

Today, I think of the fight for gun controls, a fight which has lasted through six Congresses and seven Attorneys General, a fight which has never been taken to the streets, but has been pursued lawfully and quietly in the hearing rooms, committee rooms, and Chambers of this Capitol, a fight supported by over 80 percent of the American people, and even by two-thirds of the Nation's gun owners, but a fight which has not yet produced results.

What lesson, I wonder, have we taught our young and our dissatisfied in this history? They have seen the flood tide of gun tragedies proceed on unabated, while the legislative channels have been damned at every turn by obstruction, obfuscation, and delay. They have watched in horror as the facts of gun violence and bloodshed are reproved daily, while the enemies of change respond only with an effort to brainwash the Congress and the people into inaction.

And thus we have had inaction. The due processes of law have not responded to the public needs. The legislative machinery has creaked on slowly, going into reverse at times, and grinding to a halt at frequent intervals. After efforts enough to move a mountain, we have so far produced a mouse. Should the people now give us hope for the system? Should they take to the streets demanding action? Is this the lesson we shall teach them?

Plato suggested long ago "that man never legislates; but accidents of all sorts legislate for us in all sorts of ways." Must we suffer another accident of history to bring us together again for a last chance to redeem our pledge of leadership and of conscience?

Surely this is the issue that faces us. No one seriously doubts that the nearly unfettered flow of lethal firearms in our land facilitates gun crimes. No one honestly questions that a comprehensive system of handgun controls would help deny weapons to those who would misuse them. No one really believes that the man who would use a handgun in legitimate target shooting competition would consider it an inconvenience to show a license when he buys a gun. Our minds and our conscience tell us plainly what the right course is, and it is just a question of leadership.

For, some of our people have been misled by others. Some have succumbed to brainwashing by those with ulterior motives of one sort or another. Some have mindlessly chosen sides in an artificial confrontation where there need be no sides. Some have, understandably yielded to demagogic appeals and to production of emotion. We are all human.

And in the Senate of the United States, we are also chosen to be leaders of opinion. It is within our power to remove the smokescreens from people's eyes, to free the cobwebs from their minds, to put the demagogs in their place, to prevent the overtaking of emotion. And since these are within our power, they are also within our duty if we are to be true to ourselves and to our oaths.

In the summer of 1972, the Senate sponsored legislation to restrict access to handguns, the so-called Saturday Night Specials. However, no

By the House of Representatives in that measure. So today,



protecting the people of our Nation from the lawless misuse of handguns, remains an important item on the list of our national social crises.

For that reason, I am proposing legislation to install a uniform nationwide system that will begin to control the widespread misuse of hand held firearms.

The Handgun Control Act of 1975 contains three basic provisions:

First. This bill requires that all handguns must be registered according to federally established standards.

Second. Each handgun owner must be licensed in order to have a handgun.

Third. This bill bans the distribution and the output of all handguns that have a barrel less than 6 inches in length. Only police authorities and military officials may be authorized to possess handguns with barrels less than 6 inches long.

The principal purpose of the first requirement—that all handguns must be registered—is to provide an improved system for law enforcement agencies to trace those who commit crimes with handguns. This provision covers handguns already in private ownership and those to be acquired in the future.

At least 35 million handguns are owned by the people of this Nation. And each year we are now placing nearly 3 million new handguns on the marketplace. Yet there is no system in this country that attempts to bring order to the explosive spread of these deadly little devices.

Registration will tell us how many guns there are, where they are, and in whose hands they are held.

Under my bill, registration information will be referred to the National Crime Information Center maintained by the Federal Bureau of Investigation, thus enabling enforcement officers throughout the country to trace immediately the ownership of any handgun. A person who carries a handgun must have a certificate of registration, to be exhibited upon the demand of any law enforcement officer.

Under the terms of the proposals, a violation of the registration provisions is punishable by imprisonment for up to 5 years, a fine of up to \$10,000, or both. The Secretary has authority to declare periods of amnesty during which previously unregistered handguns may be registered without penalty. Any purposeful falsification or forgery of registration information is punishable by imprisonment for up to 10 years, or a fine of up to \$25,000 or both.

The second feature of my bill requiring every handgun owner to obtain a license before he may be entrusted with a handgun is fundamental in guarding against the hazards of indiscriminately allowing criminals to obtain handguns.

A handgun is such a terribly vicious weapon, that members of a civilized society should mandate handgun owners to prove that they are not disqualified from having access to these instruments of death.

Under the provisions of my bill, if a State does not adopt a handgun permit system that meets minimum standards specified in the bill, Federal licensing will become effective until the State adopts an adequate permit system. No person—whether a licensed dealer or a private individual, may sell ammunition to an individual who does not have either an adequate State permit or a Federal handgun license. To qualify as having an adequate permit system, a State must restrict the issuance of permits applied for by convicted felons, fugitives from justice, mental defectives, alcoholics, juveniles, and drug addicts, and must adequately investigate applicants prior to the issuance of permits.

In States that do not enact adequate permits systems, Federal handgun licenses, valid for up to 3 years, will be issued by federally licensed dealers upon receipt—from both the chief law enforcement officer of an applicant's locality and a licensed physician—of information bearing upon his eligibility for a Federal license.

The sale or possession of ammunition in violation of the licensing and permit provisions of the bill carries a maximum sentence of imprisonment of 5 years and a fine of \$5,000.

The purpose of the third provision of my bill—banning the domestic output of hand-held firearms with a barrel less than 6 inches in length is to get at the heart of the problem of those guns used in crime. Handguns with a barrel of 2, 3, 4, or 5 inches are so easily concealed that the weapons can be flashed

at a moment's notice to intimidate, or overpower and then to wound or to kill. The handgun's role in crime is disproportionate to its number in comparison with long guns in the commission of homicide, aggravated assault and armed robbery.

Over 50 percent of the 20,000 homicides in 1974 were committed with handguns. Virtually every robbery involving a firearm takes place with a handgun. The percentage of violent crimes in which handguns are used is increasing. For the period 1962 to 1974, 73 percent of the weapons used in police murders were handguns. From the working papers of the National Commission on Reform of Federal Criminal Laws, Prof. Franklin Zimring explains why it is vital that we have a nationwide system for the control of firearms, particularly for hand-held firearms:

"In Massachusetts, where restrictive handgun licensing has been in effect for many years, a study showed that 87 percent of the firearms confiscated as a result of use in crime came from other States, and similar studies by the task force on firearms of the Eisenhower Commission show a similar pattern to be true in New York City, with restrictive handgun licensing, and Detroit, Michigan, with a permissive handgun licensing system and a geographic vulnerability to the inflow of weapons from Toledo, Ohio."

Under the system that I have proposed uniform standards of handgun control will be proscribed by the Federal Government. Each state will be governed by the minimum requirements for a registration and licensing system. With such a comprehensive and uniform system of controls of handguns, we can eliminate the controlled flow of handguns from State to State.

Massachusetts, New York, and other communities with stringent controls will realize substantial improvements in their efforts to reduce handgun violence.

Handgun control has been a subject of serious study by expert panels that have probed the problem of gun violence in America. My proposal in the Handgun Control Act of 1975 was developed on the basis of recommendations made by five commissions appointed by Presidents of the United States.

The President's Commission on Law Enforcement and Administration of Justice, 1967; the National Advisory Commission on Civil Disorder, 1968; the National Commission on the Causes and Prevention of Violence, 1969; the National Commission on Reform of Federal Criminal Laws, 1970; and, the National Advisory Commission on Criminal Justice Standards and Goals, 1973.

Each of these expert panels thoroughly studied the gun problem in America and strongly urged the adoption of stringent controls to restrain the needless proliferation of handguns in our society.

From those studies, it has been consistently concluded that sportsmen, hunters, and other who use guns for legitimate purposes, are not the source of the abuse of firearms. My handgun bill is designed to stem the flow of firearms to people who have no legitimate need to own guns. There is no intention in this legislation to burden the sportsman or the hunter in his recreational pursuit of gun ownership.

My bill seeks only to accomplish the goal of halting the unbridled flow of illegitimate handguns that are too often available to those who are bent on lawlessness.

#### WHY DOES ANYONE ARGUE AGAINST GUN CONTROL?

The arguments used to oppose gun controls are old and hackneyed. The same lament has been used in one of the following forms time and time again:

First. Gun control cannot limit the supply of guns enough to reduce violence.

Second. The Constitution protects the citizen's right to bear arms.

Third. There is no need to ban guns because guns are not killers; people do the killing.

Fourth. Criminals will always find a way to obtain a gun. Thus, controls will only disarm those who obey the law.

Fifth. Registration and licensing procedures are so cumbersome and inconvenient that they would create unfair burdens for legitimate gun owners.

Opponents of effective gun controls believe that these objections are firmly rooted in substance. But a thorough examination of each of these claims reveals that not one of them is well founded.

First, can laws limit the supply of guns enough to reduce violent crime?

Of course, such laws, properly enforced, can reduce the availability of handguns. In 1968, when importers anticipated enactment of a new gun law, about 1.2 million handguns were rushed into the American market. Then in 1969, pistol and revolver imports fell to less than 350,000 and have not risen substantially above that total since then.

Today, nearly 3 million new handguns enter the American market because handgun parts are still legally imported and because U.S. manufacturers are still authorized to produce them. The legislation I am introducing would not only reduce the number of handguns assembled from imported parts, but it would also drastically curtail the output of domestically manufactured handguns.

In June 1934, President Roosevelt signed the National Firearms Act which outlawed civilian ownership of machineguns. Perhaps, it is the law that best illustrates the way in which legislation can effectively restrain the availability of firearms. Since enactment of that measure over 40 years ago, machine guns have been virtually eliminated from the scene. Obviously that weapon has no legitimately useful place in a civilized society. Easily concealable pistols and revolvers are also out of place in today's highly urbanized and complex society.

Opponents of handgun control insist that it is impossible to prevent the criminal from obtaining a handgun. But, if the criminal has to steal a gun before he can use a gun, he will use a gun much less frequently.

I believe we can reduce the awesome rate of death, and injury caused by fire from pistols and revolvers. And I believe an effectively enforced ban on the output of these deadly devices is the most direct way to accomplish that goal.

Second. It is claimed that the second amendment to the Constitution protects the citizen's right to bear arms. Anyone who believes "the right to bear arms" is borne in the Constitution has conveniently ignored the language of the second amendment. For, the second amendment provides that—

"A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

The U.S. Supreme Court has repeatedly said that this amendment has nothing to do with the right to personal ownership of guns but only with the right of a State to establish a militia.

In its historic perspective, the purpose of the second amendment emerges clearly. Debates in the First and Second Congresses were naturally effected by the recently won independence of the new Government. And in Massachusetts it was bitterly recalled that the British Crown had quartered its troops but forbade the organization of a colonial militia. Reported congressional debates from those times support the view that the second amendment was designed to protect and preserve the State militias. No mention was made of any individual "right" to possess, carry, or use arms and there is no indication of any concern with the need to do so. The new Government was much more interested in maintaining State militias to defend the hard won liberty. That fledgling Government feared the establishment of a Federal standing army as a threat to the basic authority of the several States.

Indeed, all but one of the 14 States of the Union in December 1791, when the Bill of Rights was ratified, and adopted a constitution or a declaration of rights, under which their people were governed.

Rhode Island still operated under its charter of 1663, which authorized the colony to organize a militia. But there was no mention of any "right" to bear arms.

Eight States—Delaware, New Jersey, Connecticut, Georgia, South Carolina, Maryland, New Hampshire, and New York, operated under constitutions that made no mention of any "right" to bear arms. Though each authorized a State militia.

Three States—Massachusetts, North Carolina, and Virginia, expressly recognized the right of the people to bear arms for the defense of the State.



Two States—Pennsylvania and Vermont—included language in their constitutions which acknowledged that—

"The people have a right to bear arms for the defense of themselves and the State."

However, that sentence was included in a paragraph that was concerned with the prohibition against a standing army and guarantee of civilian control of the militia.

Considering the history of this problem, reason defines the phrase "defence of themselves" as referring only to collective defense. That phrase did not include individual defense.

It appears, therefore, that both the States and the Congress were preoccupied with the distrust of the standing armies and the importance of preserving State militias. It was in this context that the second amendment was written and it is in this context that it has been interpreted by the courts.

Third—One other common refrain against firearm controls is that "guns do not kill, people do." This argument contends that people who use guns should be dealt with severely. But efforts to control the weapons are not necessary. Yet, a quick look at the statistics and common sense tell us that it is when guns are in hand, that two-thirds of the people who kill other people do so; and it was when guns were in hand that over 250,000 robberies were committed in 1973; and it was when guns were in hand that one quarter of the Nation's 400,000 aggravated assaults were committed in 1973.

Murder is usually committed in a moment of rage. Guns are quick and easy to use. They are also deadly accurate, and they are all too often readily accessible. Some estimate that there are over 35 million handguns in private ownership in this country. Each year, 2.5 million new handguns are introduced for civilian use into the marketplace. Because handguns are available people use them.

Rarely does an attacker make a deliberate choice of a gun over a knife. But because the fatality rate of knife wounds is about one-fifth that of gun wounds, it may be concluded that using a knife instead of a gun might cause 80 percent fewer deaths.

Fourth. Others make the argument that because criminals have guns, gun control will simply disarm law abiding citizens. Lawless citizens, according to that argument, will feel unobliged to be bound by gun restrictions.

Perhaps there is something to that. And for that reason, I am convinced that gun restrictions can be effective in limiting the wholesale misuse of firearms. Strict gun restrictions will aid in disarming any who fails to register their weapons or obtain a license for ownership. Indeed, the enforcement of licensing and registration laws serves to isolate precisely those citizens who flaunt the law. For enactment of such legislation makes it a crime merely to possess an unregistered firearm. Commission of a crime with such a weapon compounds the wrong of any illegal act.

Fifth. It may be the greatest number who protest gun controls do so on the basis that the administrative requirements for registration are cumbersome and inconvenient. Since 1969, the Congress has attempted several times to remove the recordkeeping requirements of the 1968 gun control law, regarding sales of .22 caliber ammunition.

I have repeatedly objected to any move that would repeal provisions of the requirement to record sales of such ammunition. Between 6 billion and 7 billion rounds of ammunition are produced in this country each year. At least 85 percent of those bullets are .22 caliber. Records maintained to control the sales of ammunition may be useful in restricting access only to those gun owners who intend to use their weapons for legitimate purposes.

I believe that any measure we might adopt which will substantially reduce the misuse of firearms will at the same time enhance whatever pleasures that may be derived from the so-called recreational pursuits of gun ownership.

If the only price of firearms recordkeeping requirements is the inconvenience to gun users then with my bill, the American people will have been delivered a special bargain.

#### GUNS IN OTHER COUNTRIES

Among the nations of the world, America stands in the bloodiest pool of deaths by gunfire. We are not only ranked No. 1, but No. 2 lags so far behind

that a tally of gun deaths in all civilized nations probably would not equal the excessive fusillade we train on our fellow citizens.

In 1973, the total gun murder rate in the United States was 6.2 per 100,000 population. And the handgun murder rate was 4.9. Thus, even the U.S. handgun murder rate was 62 times the rate in Scotland, the Netherlands, and Great Britain and Japan, 31 times the rate in Denmark, France, Sweden, and Switzerland, and 20 times the rate in New Zealand, Germany, and Italy.

From the following table showing gun deaths for 13 countries, it is clear that guns in America place our Nation shamefully ahead:

TOTAL NUMBER AND RATE PER 100,000 POPULATION

Country (year is the latest for which figures are available)	Total homicide		Gun homicide	
	Number	Rate	Number	Rate
United States, 1973.....	19,510	7.5	11,249	6.2
Australia, 1970.....	190	1.5	71	.6
Denmark, 1971.....	48	1.0	12	.2
England and Wales, 1972.....	384	.8	41	.1
France, 1970.....	373	.7	124	.2
German Federal Republic, 1971.....	802	1.3	203	.3
Ireland, 1972.....	21	.7		
Italy, 1970.....	442	.8	239	.4
Japan, 1971.....	1,380	1.3	20	.0
Netherlands, 1972.....	72	.5	13	.1
New Zealand, 1971.....	25	.9	3	.3
Scotland, 1972.....	73	1.4	3	.1
Sweden, 1971.....	76	.9	19	.2
Switzerland, 1972.....	57	.9	12	.2

The United States is a glaring exception among the civilized societies that have acted to control guns. In Italy, West Germany, France, Britain, and the Soviet Union, "the right to bear arms" is a strictly regulated privilege. In Japan, private gun ownership is all but prohibited. No less than five European countries totally prohibit the private possession of handguns. From a 1968 State Department survey of 102 of its diplomatic posts, results show that 29 European countries require either a license to carry a firearm or registration of the ownership or sale of each privately owned firearm or both.

#### CONGRESSIONAL ACTION ON A NATIONAL FIREARMS POLICY

Legislation to control the violence caused by firearms is essential in the national campaign to reduce handgun deaths. At the same time, public education and ongoing research in the relationship between firearms and violence is also vitally important.

The gun mystique fascinates and excites the imagination. Filmed stories, novels and dramatic presentations that depict gun violence are enjoyed and readily understood by all members of our society. The role of the handgun in American society has been clearly distorted. What is needed is a complete reform of the role of the handgun. It is clearly not a weapon of entertainment. And only rarely is it used for sporting purposes. Many Americans insist that a handgun provides desperately needed comfort and security in a menacing environment where assailants threaten the weak, the helpless, and the lonely. Yet, the wide proliferation of handguns seems to revolve through a vicious cycle that seems more and more people who are buying guns to protect themselves from more and more people who have guns.

I am convinced that this national evil of handgun roulette must be interrupted, before the two gun family becomes as common as the two car family.

Many Americans are looking forward to hearings on gun control to be conducted by the Senate Subcommittee To Investigate Juvenile Delinquency. As a member of that committee, I intend to work vigorously for passage of this legislation which will be considered by that committee.

In addition, I am looking forward to a full review of the most effective ways to improve enforcement of the 1968 Gun Control Act. The provisions of



that law need to be reviewed not only for improvement of its enforcement provisions, but also to determine whether other more far-reaching measures must be enacted.

Under the provisions of my bill, certain handguns will be authorized for manufacture in the United States. To guard against the unbridled production of such weapons, it has been recommended by some experts that handgun production quotas must be imposed upon the Nation's firearms producers. Hopefully, that recommendation will be thoroughly probed to determine the most effective ways to accomplish that goal.

Finally, I am convinced that a majority of the American people want to see an end to gun crime. Based upon the studies from experts who understand the causes of violence in this Nation, I am pursuing enactment of legislation to drastically restrict access to hand held firearms. I believe that enactment and enforcement of adequate gun controls, can be achieved. And I look forward to working with my colleagues on this serious matter to obtain the legislative results that can be useful to the people of our country.

94TH CONGRESS  
1ST SESSION

# S. 1447

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## IN THE SENATE OF THE UNITED STATES

APRIL 17, 1975

Mr. KENNEDY (for himself and Mr. STEVENSON) introduced the following bill;  
which was read twice and referred to the Committee on the Judiciary

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## A BILL

Federal Handgun Control Act of 1975.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act may be cited as the "Federal Handgun Con-  
4       trol Act of 1975".

5       SEC. 2. The Congress finds and declares—

6               (1) that handguns are the principal instruments of  
7       violent crime in the United States and are concealable  
8       weapons designed for the primary purpose of killing  
9       and maiming human beings;

10              (2) that the crimes of violence and the accidental  
11       injury caused by handguns threaten the peace and do-  
12       mestic tranquility of the citizens of the United States

1       and the security and general welfare of this Nation and  
2       its people, and burdens commerce among the several  
3       States;

4               (3) that such legitimate purposes for handgun own-  
5       ership as exist will not be impeded by a national system  
6       of registration of handguns and licensing of handgun  
7       owners;

8               (4) that much of the violence with handguns is  
9       made possible only through the interstate traffic of  
10      handguns, including traffic from jurisdictions with per-  
11      missive handgun regulation to jurisdictions with more  
12      stringent regulation of handgun possession and transfer;

13              (5) that Federal regulation of interstate sales and  
14      transportation of handguns is necessary to reduce the  
15      frequency of handgun violence; and

16              (6) that a system of Federal regulation requires a  
17      national program of registration of handguns and licens-  
18      ing of handgun owners.

19      SEC. 3. Section 921 (a) of title 18, United States Code,  
20      is amended by inserting after paragraph (20) the following:

21              “(21) The term ‘handgun’ means a firearm designed or  
22      redesigned to be fired by the use of a single hand, having a  
23      barrel less than ten inches in length and designed, redesigned  
24      or made or remade to use the energy of an explosive to expel  
25      a projectile or projectiles through a smooth or rifled bore.

1 The term also includes a combination of parts in the posses-  
2 sion or under the control of a person from which a handgun  
3 can be assembled. The term does not include antique fire-  
4 arms.

5 “(22) The term ‘handgun model’ means a handgun of a  
6 particular design, specification, and designation.

7 “(23) The term ‘Secretary’ means the Secretary of the  
8 Treasury.”.

9 SEC. 4. Section 922 (b) of such title 18 is amended—

10 (a) by striking out at the end of paragraph (4)  
11 thereof the word “and”;

12 (b) by striking out at the end of paragraph (5)  
13 thereof the period and inserting in lieu thereof a semi-  
14 colon;

15 (c) by adding after paragraph (5) thereof the fol-  
16 lowing new paragraph:

17 “(6) any handgun model unless such handgun  
18 model has been approved by the Secretary pursuant to  
19 section 922 (n) of this title.”; and

20 (d) by striking out the last sentence of such sub-  
21 section and inserting in lieu thereof the following:

22 “Paragraphs (4) and (6) of this subsection shall not  
23 apply to a sale or delivery to any research organization  
24 designated by the Secretary. Paragraph (6) of this  
25 subsection shall not apply to the sale or delivery of any

1       firearm to the United States or any department or  
2       agency thereof, or to any State, department, agency, or  
3       political subdivision thereof, or to any duly commis-  
4       sioned law enforcement officer of the United States or  
5       any department or agency thereof or of any State,  
6       department, agency, or political subdivisions thereof  
7       (including but not limited to members of the Armed  
8       Forces and police officers) properly authorized to carry  
9       such firearms in his official capacity. Paragraph (6) of  
10      this subsection shall not apply to the sale or delivery by  
11      a licensed importer, licensed manufacturer, or licensed  
12      dealer to a licensed dealer of any firearm intended to be  
13      sold or delivered to any government or agency thereof  
14      or person entitled pursuant to this paragraph to have  
15      such firearms sold or delivered to him. Paragraph (6)  
16      of this subsection shall not apply to the sale or delivery  
17      to a licensed collector or licensed dealer of any firearm  
18      which is a curio or relic, as the Secretary shall by regula-  
19      tion define. Paragraph (6) of this subsection shall not  
20      apply to occasional, sporadic sales of single handguns by  
21      a licensed collector who is not a dealer, as defined by  
22      section 921 (a) of this title.”.

23      SEC. 5. Section 922 of such title 18 is amended by add-  
24      ing at the end thereof the following new subsections:

25      “(n) It shall be unlawful for any person to import,



1 manufacture, sell, buy, transfer, receive, or transport any  
2 handgun which the Secretary has determined to be unsuitable  
3 for such lawful purposes as law enforcement or military uses,  
4 based upon standards previously established by the Secretary,  
5 but in no event shall the Secretary approve as suitable for  
6 such lawful purpose a handgun which has a barrel less than  
7 six inches in length.

8 “(o) It shall be unlawful for any person to reduce the  
9 length of the barrel or the overall length of a handgun previ-  
10 ously approved by the Secretary for sale and delivery if as  
11 a result of such modification the handgun no longer meets the  
12 standards prescribed pursuant to subsection (n) of this  
13 section.”.

14 SEC. 6. (a) Chapter 44 of such title 18 is further  
15 amended by adding after section 923 the following new  
16 section:

17 **“§ 923A. Registration and licensing of handguns; trans-**  
18 **fer of handguns and handgun ammunition**

19 “(a) (1) (A) No person other than a licensed importer,  
20 licensed dealer, or licensed manufacturer shall knowingly  
21 possess any handgun unless such handgun is registered with  
22 the Secretary pursuant to this subsection. The Secretary shall  
23 not register any handgun, which is subject to the provisions  
24 of section 922 (n) .

25 “(B) No person shall transfer possession of any hand-

## 6

1 gun or ammunition for use in a handgun to another person  
2 unless the transferee (other than a licensed importer, licensed  
3 dealer, licensed collector, or licensed manufacturer) displays  
4 a Federal handgun license issued under subsection (b) of  
5 this section and temporary evidence of registration of the  
6 handgun to be transferred (as provided in paragraph (3)  
7 (E) of this subsection). Where the transferee is a licensed  
8 importer, licensed dealer, licensed collector, or licensed manu-  
9 facturer, no person shall transfer possession of any handgun  
10 or ammunition for use in any handgun unless such transferee  
11 displays a license issued under section 923, and in the case of  
12 a licensed collector, temporary evidence of registration of the  
13 handgun to be transferred (as provided in paragraph (3)  
14 (E) of this subsection).

15 “(2) (A) Whenever the Secretary determines—

16 “(i) that a State agency will carry out the regis-  
17 tration provisions of subsection (a) of this section in an  
18 adequate manner; and

19 “(ii) that the State agency has filed an application  
20 in such form and containing such information as the  
21 Secretary may reasonably require, for a grant under  
22 this paragraph,

23 the Secretary is authorized to enter into an agreement with  
24 that State agency under this paragraph to pay to the State  
25 agency a grant equal to the cost of carrying out the handgun

1 registration program required by this subsection in that  
2 State.

3 “(B) Each agreement entered into under this paragraph  
4 shall contain provisions to assure that the State agency  
5 will administer all the provisions of this subsection relating  
6 to the registration of handguns within the State efficiently  
7 and effectively, and shall provide for the expeditious forward-  
8 ing by the State agency to the Secretary all information  
9 required to be provided under this Act and the regulations  
10 made pursuant to it by individuals seeking to register a  
11 handgun.

12 “(C) Payments under this Act may be made in install-  
13 ments and in advance or by way of reimbursement, with  
14 necessary adjustments on account of overpayments or under-  
15 payments.

16 “(D) Whenever the Secretary, after reasonable notice  
17 and opportunity for hearing to any agency, finds that there  
18 has been a failure to comply substantially with any provision  
19 of the agreement with that State entered into under this  
20 paragraph, the Secretary shall notify the agency that further  
21 payments will not be made under this paragraph until he is  
22 satisfied that there is no longer any such failure to comply.  
23 Until he is so satisfied, no further payments shall be made  
24 under this paragraph. The Secretary is authorized to rescind  
25 any agreement entered into under this paragraph whenever

1 he determines that the failure of the State agency concerned  
2 has been substantial or repetitious or both.

3 “(E) There are authorized to be appropriated such  
4 sums as may be necessary to enable the Secretary to make  
5 enforcement grants under this paragraph.

6 “(3) Notwithstanding the provisions of section 925  
7 (a) (1), the Secretary shall prescribe such regulations as  
8 he deems reasonably necessary to provide procedures for the  
9 registration of any handgun possessed and for which regis-  
10 tration is applied by (A) the United States or any depart-  
11 ment or agency thereof, or (B) any State, or department,  
12 or agency, or political subdivision thereof. Any regulations  
13 so prescribed may authorize any such department, agency,  
14 or instrumentality of the United States or any State or  
15 political subdivision thereof to prescribe its own procedure  
16 for registration of handguns subject to the approval of the  
17 Secretary.

18 “(4) The application for registration of a handgun  
19 shall be filed in such place as the Secretary by regulation  
20 may provide and be in such form and contain such infor-  
21 mation as the Secretary shall by regulation prescribe  
22 including—

23 “(A) the name and address of the applicant,

24 “(B) the number of the Federal handgun license  
25 issued to the applicant pursuant to subsection (b),

1       “(C) the name of the manufacturer, the caliber or  
2       gage, the model and the type, and the serial number  
3       of the handgun,

4       “(D) the date, place, and name and address of the  
5       person from whom the handgun was obtained, the num-  
6       ber of such person’s certificate of registration of such  
7       handgun if any, and, if such person is licensed under sec-  
8       tion 923, his license number, and

9       “(E) a form containing sufficient copies to allow  
10      the applicant to retain a duplicate of the original applica-  
11      tion which duplicate shall be retained by the applicant  
12      and shall be temporary evidence of registration.

13      “(5) Each applicant shall pay a fee for registering each  
14      handgun as follows—

15      “(A) for the first handgun, a fee of \$2,

16      “(B) for each additional handgun, a fee of \$1, and

17      “(C) for a collection of handguns (as that term is  
18      defined in regulations which the Secretary shall pre-  
19      scribe), a fee of \$2.

20      The provisions of this paragraph shall not apply, and no  
21      registration fee shall be charged for registration of any  
22      handgun possessed and for which registration is applied by—

23      “(i) the United States or any department or agency  
24      thereof,



1           “(ii) any State, political subdivision, department,  
2           or agency thereof.

3           “(6) Upon the filing of a proper application and pay-  
4           ment of the prescribed fee, the Secretary shall issue to the  
5           applicant a numbered registration certificate identifying  
6           such handgun and such applicant as the registered owner  
7           of such handgun.

8           “(7) (A) Any person shall be ineligible to register  
9           or to apply to register a handgun pursuant to this sub-  
10          section who—

11          “(i) is under eighteen years of age;

12          “(ii) is, because of alcoholism, drug addiction, or  
13          mental disease or defect, an individual who cannot pos-  
14          sess or use handguns safely or responsibly;

15          “(iii) has been convicted in any court of a crime  
16          punishable by imprisonment for a term exceeding one  
17          year;

18          “(iv) is a fugitive from justice; or

19          “(v) is not qualified under all applicable Federal,  
20          State, and local laws to register a handgun pursuant  
21          to this subsection.

22          Any purported registration by any of the persons described  
23          in this subparagraph shall be void.

24          “(B) In making determinations under subparagraph  
25          (A) (ii) above, an applicant may submit, with his applica-

tion or subsequent to his initial application, to the Secretary or his authorized representative, a statement from a duly licensed physician stating that, in the opinion of such physician, such person is not by reason of alcoholism, drug addiction, or mental disease or defect physically or mentally unfit to possess a handgun. The provisions of this subparagraph shall be considered to establish a presumption of fitness on behalf of any person submitting such a statement, in the absence of contrary evidence.

“(8) (A) Any person to whom a handgun registration certificate has been issued by the Secretary under this section shall notify the Secretary of any change in such person’s name or address within thirty days of the date of any such change. Such notice shall contain (i) the registration number of each handgun registration certificate issued under this subsection, and (ii) the license number of the Federal handgun license issued to such person under subsection (b) of this section.

“(B) (i) Any person to whom a handgun registration certificate has been issued by the Secretary under this section who transfers possession of any handgun so registered, shall within five days of such transfer, return to the Secretary his registration certificate, noting on it the name and residence address of the transferee, the number of the

1 Federal handgun license issued to the transferee under this  
2 Act, and the date of such transfer.

3       “(ii) Any person licensed under section 923 shall not  
4 accept possession of a handgun by way of pledge or pawn  
5 without also taking and retaining, during the term of such  
6 pledge or pawn, the Federal registration certificates issued  
7 under this section. If such pledge or pawn is not redeemed,  
8 such licensee shall return such registration certificate to the  
9 Secretary and register the handgun in his own name.

10       “(iii) The executor or administrator of any estate  
11 containing a registered handgun shall promptly notify the  
12 Secretary of the death of the registered owner, return the  
13 certificate of registration of the deceased registered owner  
14 to the Secretary, and register the handgun in the name of  
15 the estate according to the provisions of this section. The  
16 executor or administrator of an estate containing an unregis-  
17 tered handgun shall promptly surrender such handgun to  
18 the Secretary or his designee without compensation and shall  
19 not be subject to any penalty for any prior failure to register  
20 such handgun.

21       “(iv) Any person possessing a handgun shall within  
22 ten days notify the Secretary (in a manner to be prescribed  
23 by the Secretary) of the loss, theft, or destruction of the  
24 handgun, and shall notify the Secretary of any recovery of  
25 such handgun occurring subsequent to the date of notification  
26 of loss under this clause. . .

1       “(9) Any person to whom a handgun registration cer-  
2       tificate has been issued by the Secretary under this section  
3       shall exhibit his registration certificate upon demand of a law  
4       enforcement officer.

5       “(b) (1) No person other than a licensed importer,  
6       licensed dealer, licensed manufacturer, or licensed collector  
7       shall knowingly possess or receive possession of any hand-  
8       gun or ammunition for use in any handgun unless such  
9       person has filed an application with and received a Federal  
10      handgun license from the Secretary pursuant to this sub-  
11      section.

12      “(2) No person (except as provided in subsection (d)  
13      of this section), shall transfer possession of any handgun  
14      or ammunition for use in any handgun unless such person  
15      has filed an application with and received a Federal handgun  
16      license from the Secretary.

17      “(3) No person shall transfer possession of any handgun  
18      or ammunition of a caliber for use in any handgun unless the  
19      transferee displays a license issued under this subsection,  
20      or section 923.

21      “(4) The application for a Federal handgun license  
22      shall be in such form and contain such information as the  
23      Secretary shall by regulation prescribe, including—

24              “(A) the name, current address, date of birth,  
25              place of birth, and signature of the applicant,

1           “(B) a statement signed by the applicant (in such  
2       form as the Secretary shall by regulation prescribe)  
3       that the applicant may lawfully possess handguns and  
4       ammunition under the laws of the United States and of  
5       the State and political subdivision wherein he resides,  
6       and

7           “(C) a complete set of the applicant’s fingerprints  
8       and a photograph reasonably identifying the applicant.

9           “(5) Upon the filing of a proper application and pay-  
10      ment of the prescribed fee, the Secretary shall issue a Fed-  
11      eral handgun license to the applicant, and such license shall  
12      be valid for a period not to exceed three years. Any such  
13      license may be renewed upon the expiration of the initial  
14      licensing period, and periodically thereafter, for periods (not  
15      to exceed three years each) to be prescribed by the Secre-  
16      tary. The Secretary shall by regulation prescribe the applica-  
17      tion requirements and form for such renewal applications.

18           “(6) An applicant for a Federal handgun license shall  
19      pay a fee for obtaining such a license in the amount of \$5,  
20      and a fee for renewing any such license in the amount of \$5.

21           “(7) (A) The Secretary shall not approve any applica-  
22      tion submitted under this subsection if—

23           “(i) the applicant is under eighteen years of age;

24           “(ii) the applicant is, because of alcoholism, drug



1       addiction, or mental disease or defect, an individual who  
2       cannot possess or use handguns safely or responsibly;

3       “(iii) the applicant has been convicted in any  
4       court of a crime punishable by imprisonment for a term  
5       exceeding one year;

6       “(iv) the applicant is a fugitive from justice; or

7       “(v) the applicant is not qualified under all appli-  
8       cable Federal, State, and local laws.

9       “(B) In making determinations under subparagraph

10    (A) (ii) above, an applicant may submit, with his applica-  
11    tion or subsequent to his initial application, to the Secretary  
12    or his authorized representative, a statement from a duly  
13    licensed physician stating that, in the opinion of such physi-  
14    cian, such person is not by reason of alcoholism, drug addic-  
15    tion, or mental disease or defect physically or mentally un-  
16    fit to possess a handgun. The provisions of this subparagraph  
17    shall be considered to establish a presumption of fitness on  
18    behalf of any person submitting such a statement in the  
19    absence of contrary evidence.

20       “(c) Denials by the Secretary of an application for  
21    registration of a handgun, or for a Federal handgun license,  
22    or renewals shall be subject to the provisions of chapter 5,  
23    title 5, United States Code. Any person aggrieved by the  
24    action of the Secretary shall have the right to judicial

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1 review of such action in accordance with the provisions of  
2 chapter 7 of title 5 of the United States Code.

3 “(d) Notwithstanding the provisions of subsection (b),  
4 and except as otherwise prohibited by this chapter or by  
5 the laws of any State or political subdivision thereof, any  
6 person licensed under section 923 may transfer a handgun  
7 or handgun ammunition to a person only if such licensee con-  
8 firms that the purchaser has been issued a valid Federal  
9 handgun license or a Federal dealer's license and notes the  
10 number of such handgun or dealer's license in the records  
11 required to be kept by section 923 (g).

12 “(e) (1) Information required to be included in any  
13 application, form, certificate, or license submitted to or issued  
14 by the Secretary under this section shall not be disclosed  
15 by him except to the National Crime Information Center  
16 established by the Federal Bureau of Investigation, and to  
17 law enforcement officers requiring such information in pursuit  
18 of their official duties.

19 “(2) When requested by the Secretary, Federal depart-  
20 ments and agencies shall assist the Secretary, to the extent  
21 permitted by law, in the administration of this section.

22 “(f) Whenever the Secretary determines pursuant to  
23 section 922 (n) that a handgun model is not approved for  
24 sale or delivery by a licensee under this chapter, the Secre-  
25 tary shall cause notice to be given to all persons in posses-

1 sion of handguns, the handgun model of which has not been  
2 approved, of such disapproval. Notwithstanding any other  
3 provision of law, not later than sixty days after receipt of  
4 such notice, any person so notified may transfer such hand-  
5 gun as provided in section 926. No criminal penalty shall  
6 attach by reason of possession of any such handgun in viola-  
7 tion of the provisions of this chapter until sixty days have  
8 passed since receipt of such notice.

9 “(g) For purposes of this section—

10 “(1) the terms ‘possess’ and ‘possession’ means  
11 asserting ownership or having custody and control;

12 “(2) the term ‘transfer’ means all sales, gifts,  
13 bequests, loans, and other means of acquiring possession  
14 of a handgun from the transferor to another person;

15 “(3) the term ‘person’ means all individuals, cor-  
16 porations, companies, associations, firms, partnerships,  
17 clubs, societies, joint stock companies, and estates; and

18 “(4) the term ‘registered owner’ means the person  
19 in possession of a handgun which is registered under  
20 this section and to whom the Federal registration certifi-  
21 cate has been issued.”

22 (b) The table of sections of chapter 44 of title 18,  
23 United States Code, is amended by inserting immediately  
24 after item “923” the following new item:

“923A. Registration and licensing of handguns.”

1        SEC. 7. Section 924 of such title 18 is amended by add-  
2        ing at the end thereof the following new subsections:

3        “(e) Whoever violates any provision of section 923A  
4        of this chapter shall be fined not more than \$5,000, or  
5        imprisoned not more than ten years, or both.

6        “(f) Whoever knowingly falsified any information re-  
7        quired to be filed with the Secretary pursuant to section  
8        923A of this chapter, or required to be filed with a State  
9        agency pursuant to an agreement entered into under section  
10       923A (a) (2) of this chapter, or forges or alters any certifi-  
11       cate of registration, or license issued or retained under such  
12       section, shall be fined not more than \$10,000, or imprisoned  
13       for not more than five years, or both.”.

14       SEC. 8. (a) Section 925 (a) of such title 18 is  
15       amended—

16       (1) by inserting in paragraph (1) immediately  
17       after “chapter” the following: “(except as provided in  
18       section 923A (a) ) ”; and

19       (2) by inserting in paragraph (2) immediately  
20       after “chapter” the following: “(except as provided  
21       in section 923A (a) ”.

22       (b) The first sentence of section 925 (c) of such title  
23       18 is amended by striking out “(other than a crime involv-  
24       ing the use of a firearm or other weapon or a violation  
25       of this chapter or of the National Firearms Act)” and

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1 inserting in lieu thereof the following: “(other than a crime  
2 involving the use of a firearm or other weapon or a viola-  
3 tion of any section of this chapter except section 923A or  
4 of the National Firearms Act) ”.

5 (c) Section 925 (d) (3) of such title 18 is amended  
6 to read as follows:

7 “(3) is of a type that does not fall within the defini-  
8 tion of a firearm as defined in section 5845 (a) of the  
9 Internal Revenue Code of 1954; is not a surplus mili-  
10 tary firearm; and if a handgun, has been approved by  
11 the Secretary pursuant to section 922 (n) of this title;  
12 or”.

13 SEC. 9. (a) Sections 926, 927, and 928 of such title 18,  
14 and all references thereto, are redesignated as sections 927,  
15 928, and 929, respectively.

16 (b) Chapter 44 of such title 18 is further amended by  
17 inserting after section 925 the following new section:

18 **“§ 926. Compensation for reasonable value of handguns**  
19 **voluntarily transferred to law enforcement**  
20 **agencies**

21 “(a) A person may at any time transfer to any Federal,  
22 State, or local law enforcement agency designated by the  
23 Secretary any handguns owned or possessed by such person.

24 “(b) In the case of transfer pursuant to subsection  
25 (a), the person transferring such handgun shall, upon proof



1 that such handgun was lawfully acquired and lawfully owned  
2 by such person prior to enactment of the Handgun Control  
3 Act of 1975, be entitled to receive from the United States  
4 a payment equal to the reasonable value of such handgun,  
5 such value to be determined as of the day before enactment  
6 of the Handgun Control Act of 1975.”

7 SEC. 10. Section 927 (as redesignated by section 9 of  
8 this Act) of such title 18 is amended to read as follows:

9 **“§ 927. Rules and regulations; periods of amnesty**

10 “(a) The Secretary may prescribe such other rules and  
11 regulations as he deems reasonably necessary to carry out  
12 the provisions of this chapter, including—

13 “(1) regulations providing that a person licensed  
14 under this chapter, when dealing with another person so  
15 licensed, shall provide such other licensed person a cer-  
16 tified copy of such license;

17 “(2) regulations providing for the issuance, at a  
18 reasonable cost, to a person licensed under this chapter,  
19 of certified copies of his license for use as provided under  
20 regulations issued under paragraph (1) of this subsec-  
21 tion; and

22 “(3) regulations providing reasonable requirements  
23 for the marking of handguns that do not have serial  
24 numbers.

25 The Secretary shall give reasonable public notice, and afford

1 to interested parties opportunity for hearing, prior to pre-  
2 scribing such rules and regulations.

3 “(b) The Secretary may declare periods of amnesty  
4 for the registration of handguns under section 923A or the  
5 transfer to any Federal, State, or local law enforcement  
6 agency of any handgun under section 926.”

7 SEC. 11. There are hereby authorized to be appropriated  
8 such sums as may be necessary to carry out the purposes of  
9 this Act.

10 SEC. 12. (a) The provisions of this Act shall take effect  
11 immediately upon enactment, except that sections 4 and 8  
12 of this Act shall take effect sixty days after the date of  
13 enactment and section 923A (a) of such title 18, as added  
14 by section 6 of this Act, shall take effect as provided in sub-  
15 section (b) of this section.

16 (b) Section 923A of such title 18, as added by sec-  
17 tion 6 of this Act, shall take effect six months after the date  
18 of enactment of this Act. Each person within any State who  
19 possesses any handgun on the effective date of such sec-  
20 tion shall, within sixty days following such effective date,  
21 complete the registration and licensing required by the pro-  
22 visions of such section. Each person within any State who  
23 purchases a handgun after such effective date shall, within  
24 sixty days following such date or thirty days following such  
25 purchase, whichever is later, complete the registration  
26 required by such section.

[Extract from the Congressional Record, July 21, 1975]

By Mr. BAYH:

S. 1880. A bill to amend the Gun Control Act of 1968 and the Controlled Substances Act and other laws to strengthen existing law enforcement authority to curb violent crime. Referred to the Committee on the Judiciary.

VIOLENT CRIME AND REPEAT OFFENDER CONTROL ACT OF 1975

Mr. BAYH. Mr. President, today I am introducing the Violent Crime and Repeat Offender Control Act of 1975. This legislation is designed to provide new and practical weapons to facilitate the Nation's effort to curb violent crime. The bill is reflective of my judgment that the time for talk and tired rhetoric whether it be of "law and order" or "domestic tranquility" has long since passed. The time for action is now.

We are all too familiar with the litany of violence reported daily by the press and media. A frightening and every-increasing number of our citizens have personally been victims of violent criminal acts. It's shocking, indeed, to learn that a child born last year is more likely to be murdered than a World War II American soldier was likely to die in combat.

Recent polls reveal that half of our citizens are afraid to walk alone at night in their own neighborhoods and that nearly 20 percent do not feel safe in their homes at night whether in suburban or urban areas.

In our large cities crime was cited by citizens responding to a 1973 Gallup poll as their top concern, twice the percentage—22 percent—of the next most important problem.

There is good reason for such concern. According to FBI statistics since 1960 violent crime—murder, aggravated assault, forcible rape, and robbery—have increased 204 percent, from 286,000 violent crimes in 1960 to 869,470 in 1973.

Since 1968 murders have increased 42 percent from 13,720 to 19,510 in 1973.

Since 1968 aggravated assaults have increased 47 percent from 283,720 to 416,270 in 1973.

Since 1968 forcible rape have increased 62 percent from 31,410 to 51,000 in 1973.

Since 1968 robberies have increased 46 percent from 261,780 to 382,680 in 1973.

Although there was a reported decrease in all serious crime, which in addition to violent crime includes auto thefts, larceny-theft over \$50, and burglary, in 1972 violent crime continued its ever-escalating trend, in fact during that much heralded election year murder was up 5 percent, aggravated assault was up 7 percent, and forcible rape was up 10 percent.

The number of juveniles arrested for serious and violent crimes increased 1,600 percent in the 20 years between 1952 and 1972. Today, youths between the ages of 10 to 17 make up 16 percent of our population, yet these same youths account for 45 percent of all persons arrested for serious crime.

Fifty-one percent of those arrested for property crimes and 23 percent for violent crimes have not yet reached their 18th birthday. That part of our population, which is under 22 years old, account for 61 percent of the total arrests; while those 25 and under account for a staggering 75 percent of the total number of people arrested annually for serious offenses. In New York City today, boys and girls 15 years old and under are committing one-third of all violent felonies.

The seriousness of the present situation was dramatically underscored in recent testimony at our subcommittee's inquiry into juvenile delinquency in our elementary and secondary schools. It was estimated at that hearing that vandalism in our schools is costing the American taxpayer over \$590 million per year. Moreover, a survey of 757 school districts across the country conducted by the subcommittee staff, entitled "Our Nation's Schools—A Report Card: 'A' in School Violence and Vandalism," found that teachers and students are being murdered, assaulted, and robbed in the hallways, playgrounds, and classrooms of American schools at an ever-escalating rate. Between 1970 and 1973, for instance, 362 teachers were assaulted in Dayton, Ohio, schools. In the Kansas City school system over 250 teachers were attacked in that same period. Each year, in fact, approximately 70,000 teachers are physically assaulted in this country, ranging from the shooting death of an elementary school principal in Chicago by one of his pupils to the beating of a high school math teacher in Omaha.

These figures are indeed alarming, but what is perhaps more frightening is that the system of juvenile justice which we have devised to meet this problem has not only failed, but has, in many instances, succeeded only in making first offenders into hardened criminals. Recidivism among youthful offenders under 20 is the highest among all age groups and has been estimated, in testimony before our Juvenile Delinquency Subcommittee, at between 75 and 85 percent.

For more than 4 years as chairman of the subcommittee I have stressed these concerns, but more importantly the failure of the Federal Government to adequately respond to juvenile crime and to make the prevention of delinquency a Federal priority.

The Juvenile Justice and Delinquency Act—Public Law 93-415—is the product of these many years of work. It was developed and supported by bipartisan groups of citizens throughout the country and was sent to the President by strong bipartisan majorities in both Houses of Congress. It passed the Senate by a vote of 88 to 1 and the House of Representatives 329 to 20.

This act is designed to prevent young people from entering our failing juvenile justice system and to assist communities in developing more sensible and economic approaches for youngsters already in the juvenile justice system.

Each year an excessive number of juveniles are unnecessarily incarcerated in crowded juvenile or adult institutions simply because of the lack of a workable alternative. The need for such alternatives to provide an intermediate step between essentially ignoring a youth's problems or adopting a course which can only make them worse, is evident.

Past Federal efforts to provide alternatives have been inadequate and have not recognized that the best way to combat juvenile delinquency is to prevent it. The act is based on the age old proven conviction that an ounce of prevention is worth more than a pound of cure. The act represents a Federal commitment to provide leadership, coordination and a framework for using the Nation's resources to assist State and local agencies, both public and private to deal more effectively with juvenile crime and delinquency prevention.

Some youthful offenders must be removed from their communities for society's sake as well as their own. But the incarceration should be reserved for those youths who cannot be handled by other alternatives.

I believe the Juvenile Justice and Delinquency Prevention Act of 1974 represents a constructive and workable approach in a joint Federal, State, local—public and private—effort to prevent delinquency and reverse the alarming rise in juvenile crime.

The recent General Accounting Office report "How Federal Efforts To Coordinate Programs To Mitigate Juvenile Delinquency Proved Ineffective" which was presented to the subcommittee by Comptroller General Staats in April of this year concurs with my assessment when it concludes "Since juveniles account for almost half the arrests for serious crimes in the Nation, adequate funding of the Juvenile Justice and Delinquency Prevention Act of 1974 would appear to be essential in any strategy to reduce the Nation's crime."

Unfortunately, while the Ford administration professes to be shocked and concerned over the skyrocketing crime rate, it has responded with marked indifference to the Juvenile Justice and Delinquency Prevention Act. In fact our recent April hearing on the implementation of the act was in part an attempt to fathom the reasoning which underlies White House and Office of Management and Budget policy designed to stifle this major bipartisan congressional and citizens mandate tailored to address the soaring rate of juvenile crime and to prevent delinquency. What we learned was that these concerns are at best secondary in this administration.

We are obviously confronting a very serious situation and I for one am becoming increasingly frustrated with the enormous gap between the rhetoric and the reality of this administration's concern over rising crime. We cannot begin to solve the problems of crime in our neighborhoods, schools, businesses, streets and homes by gathering statistics and wringing our hands over the sad picture they present.

It is hard to predict what it will take to awaken the administration to their responsibility to the American people. Two years ago, in 1973, a violent crime was committed every 36 seconds. The recently released FBI report on trends in crime for 1974 presents an even grimmer picture. Serious crime in the United States rose 17 percent last year, the highest annual increase since the FBI began collecting crime data 45 years ago.



Violent crime generally increased 11 percent nationally, with a 16 percent increase in suburban areas and an even greater increase in areas with populations between 10,000 and 50,000.

In 1974 murder was up 5 percent nationally and 12 percent in suburban areas.

In 1974 rape was up 9 percent nationally, 12 percent in suburban areas and 16 percent in areas with population 25,000 to 50,000. The Washington suburbs witnessed a 27.5 percent increase.

In 1974 aggravated assaults were up 9 percent nationally, 13 percent in suburban areas, 16 percent in areas with populations 25,000 to 50,000 and 19 percent in Washington suburbs.

In 1974 robbery was up 14 percent nationally, 22 percent in suburban areas, 25 percent in rural areas and 30 percent in cities 25,000 and under in population. Washington suburbs experienced a 26 percent increase. In Indianapolis robberies rose from 1352 in 1973 to 2343 in 1974.

Additionally, recent studies sponsored by the Law Enforcement Assistance Administration reveal that even these frightening rates of reported crimes are extremely conservative. They found that for rapes and robberies, the number actually experienced was about twice the number reported and for every aggravated assault reported five were actually committed.

The Violent Crime and Repeat Offender Control Act which I am introducing today addresses directly important aspects of violent crime. It includes the following provisions:

First. Limitations on the availability of small easily concealable handguns;

Second. Mandatory penalties for the commission of crimes involving firearms;

Third. Mandatory penalties for the illegal purchase of firearms by felons;

Fourth. Mandatory penalties for dealers or others who knowingly sell firearms to known felons;

Fifth. Reporting of gun thefts by licensees under the 1968 Gun Control Act;

Sixth. Mandatory penalties for the sale of firearms or illicit interstate purposes;

Seventh. Mandatory penalties for the manufacture, distribution or sale of heroin and morphine; and

Eighth. Establishing the robbery of a pharmacy for purposes of obtaining controlled dangerous drugs as a Federal offense; and

Ninth. The denial of favorable Youth Correction Act sentencing alternatives to persons convicted of violent crimes.

The President recently spoke about this concern regarding violent crime. He said he did not want to talk of law and order but of insuring domestic tranquility. I was immediately reminded of former President Nixon's March 1973 crime message which he closed by saying:

"The American people are a law-abiding people. They have faith in the law. It is now time for Government to justify that faith by insuring that the law works, that our system of criminal justice works, and that 'domestic tranquility' is preserved."

One can quibble about whether it was "law and order" or "domestic tranquility" but what the former administration did to ostensibly instill "faith that the law works" is unmistakably clear.

The Nixon administration gave us justice wearing not a blindfold, but a patch over one eye and with a partisan thumb on the scales.

It gave us official lies about the war in Vietnam, official burglaries, and official but illegal wiretapping and surveillance.

It gave us a Vice President who cheated on his income taxes, an Attorney General who obstructed justice, and a President who chose to cover up what was wrong rather than face up to what was right.

This is the dismal legacy of Richard Nixon and John Mitchell.

It is true that if we take crime rates as an indication, we have not provided the domestic tranquility of which the President reminded us the Constitution speaks. But tired rhetoric, hand wringing, and indifference which have marked this administration's position in crime to date serve not to alleviate our citizen's burdens but only to increase them deeper of concern.

A significant portion of the measure I introduce today is not new to the Senate. In fact many of its provisions have been approved by this body in earlier years, particularly the sections addressing the heroin trafficker and the continuing proliferation of crime handguns which are both cited by many law enforcement officials as intimately related to violent crime.



## CRIME HANDGUNS

Title II of my new bill passed the Senate, as S. 2507, in August 1972, by a vote of 68 to 25. That measure was commonly referred to as the "Saturday night special" bill, it was supported by a strong bipartisan majority of 37 Democrats and 31 Republicans. I was especially gratified that the then Republican National Chairman, Senator Robert Dole, the Senate Republican leader, Senator Hugh Scott, Senators Bill Brock and Jim Buckley along with Senator Roman Hruska and other ranking Republicans on the Judiciary Committee supported my approach. The following Senators voted for the measure:

Aiken, Allott, Anderson, Bayh, Beall, Bellmon, Boggs, Brock, Buckley, Burdick, Byrd, Harry F., Jr., Byrd, Robert C., Case, Chiles, Cook, Cooper, Cotton, Cranston, Dole, Eagleton.

Edwards, Ervin, Fong, Fulbright, Griffin, Gurney, Harris, Hart, Hartke, Hatfield, Hollings, Hruska, Hughes, Humphrey, Inouye, Jackson, Javits, Jordan, N.C., Jordan, Idaho, Kennedy, Long, Magnuson, Mathias.

McGovern, McIntyre, Miller, Muskie, Nelson, Pastore, Pearson, Percy, Proxmire, Randolph, Ribicoff, Roth, Scott, Smith, Sparkman, Spong, Stevenson, Symington, Talmadge, Thurmond, Tunney, Williams, Young.

There is no simple or easy solution for stopping the increase in crime. Our criminal laws must be more strictly enforced. Those who violate them must be swiftly apprehended and dealt with fairly but expeditiously according to the law. Our penal system must be reformed to remedy its ineffectiveness which results in more than 70 percent of those who are imprisoned continuing a life of crime when they are released. We must give more attention to preventing the "first crime" by dealing more effectively with the underlying social problems on which crime breeds.

Title II, the Handgun Crime Control Act, however, represents an important step we can take. We can limit the sale of those weapons which are used by most criminals. These are not sporting weapons but handguns only good for shooting people.

Since 1963, the Subcommittee to Investigate Juvenile Delinquency has conducted extensive investigations on a broad range of proposed firearm legislation. Hearings conducted from 1963 to 1968 established that the availability of easily concealable, typically inexpensive handguns, having no legitimate sporting purposes, constituted a serious threat to law enforcement, to the public safety and welfare, and to the integrity of State firearms control laws.

Because the hearings had demonstrated that these crime guns, known as "bellyguns," "Saturday night specials," or "man-stoppers," came primarily—up to 80 percent—from foreign shores. Congress in 1968 restricted the importation of handguns, banning all those which were not "generally recognized as particularly suitable or readily adaptable to sporting purposes."

The congressional findings explaining and justifying these legislative restrictions could not have been more clearly set forth. Congress found that the large volume of relatively inexpensive pistols and revolvers imported into the United States in recent years, had contributed greatly to lawlessness and to the Nation's law enforcement problems.

While the Gun Control Act of 1968 prohibits the import of these crime guns, the domestic manufacture or domestic assemblage from imported parts, was not restricted. Such controls were thought unnecessary in 1968, but it soon became apparent that there was a major loophole in the act.

In 1969, in testimony before the subcommittee, then Associate Deputy Attorney General Donald G. Santarelli, regarding the 1968 ban on imports of these crime guns said that—

"The problem sought to be solved has not only resisted solution but has proliferated further. By embargoing all military surplus and firearms not generally suitable for sporting purposes \* \* \* a new protected industry has been created in the United States.

"It is estimated that 700,000 of these guns will be manufactured here in 1969. It is further estimated that there will be approximately 1 million such handguns manufactured domestically in 1970. Thus, it is readily apparent that the problem caused by the Saturday Night Specials has not abated, but, in fact, has exacerbated."

Thus, congressional intent was effectively circumvented by enterprising firms in the United States that flooded the market with the very crime guns whose

availability Congress had clearly intended to curtail by the 1968 ban on non-sporting imports. The extent of this circumvention cannot be overemphasized. The most recent available figures show that annual domestic production of these handguns has risen by almost 1,600 percent since 1968. As a consequence, the findings of the Congress in 1968 concerning the role of small, easily concealable, nonsporting handguns in crime remain valid today. Indeed, criminal use of these weapons is increasing.

By extending the import standards of the 1968 act to the sale or delivery by Federal licensees of domestically manufactured or assembled crime handguns, title II would close this gaping loophole and insure that circumvention of the crime handgun provisions of the 1968 act would no longer be possible.

This approach is aimed at the so-called "Saturday night special" and other similar handguns which, by venture of design, body construction, weight, and other criteria are not of use to legitimate sportsmen. These easy to conceal, usually inexpensive handguns are the favorites of murderers, armed robbers, and gun-wielding assailants who terrorize our communities. Let there be no mistake about it; we are talking about tens of thousands of murders and hundreds of thousands of assaults and robberies.

In 1973, 19,510 murders were committed in the United States, more than 10,000 were the victims of handguns. There is a handgun murder every 48 minutes; double the 1967 rate.

Law enforcement officers in ever-increasing numbers have been fatally victimized by criminals wielding handguns. Not surprisingly, most of these killings involved small, easy to conceal handguns. Already in the first quarter of 1975 40 police officers have been murdered by assailants with handguns. Since 1963, 95 percent of these officers were killed with firearms and 72 percent, or more than 650, were killed with handguns. Of course, these figures in no way reflect the innumerable injuries sustained by officers and other public officials, including firemen, as the result of shooting assaults.

Guns are not peculiar to the crime of murder. In 1973 more than 100,000 Americans were seriously assaulted by gun-wielding criminals.

According to special FBI surveys 63 percent of all armed robberies are committed with a firearm. Since 1963, murder by firearm has more than doubled, aggravated assault by firearm has more than quadrupled, and armed robbery has increased threefold.

The increases in crimes of violence involving guns far outstrip increases in crimes of violence in which other weapons are used. In fact studies have found that the handgun is five times more deadly than all other typical weapons used in assaults upon persons establishing beyond a doubt that a criminal's potential victim seldom escapes the fate of a bullet.

Those concerned about broad gun control measures which include licensing and registration or confiscation often do not realize that my approach is not focused on the millions of law-abiding citizens and sportsmen who own firearms, significantly less than 1 percent of whom use firearms in crime, but only on those small belly guns with no sporting purpose.

Some of these same critics also believe that since firearms are used in less than 4 percent of all serious crimes any effort directed at controlling the availability of firearms, if successful, would leave unfettered 96 percent of the crime. What this misleading view fails to consider is that firearms, especially handguns, are usually used in violent crime not property crime. Violent crime accounts for 10 percent of all serious crime. Thus, when put in proper perspective and it is understood that closer to 40 percent—not 4 percent—of all violent crime involves firearms the relevance of my effort to restrict the availability of crime guns is apparent. Additionally, my approach is strengthened by the finding of the National Advisory Commission on Criminal Justice Standards and Goals that while handguns constitute only one-fourth of all privately owned firearms—approximately 200 million—they are used in more than three-fourths of all criminal gun violence.

Implementation of this title's provisions would stop the flood of primarily inexpensive and deadly handguns which threaten the physical safety and well-being of all Americans.

Take, for example, the weapon used in the attack on Governor Wallace. This weapon could not have been imported into the United States under the terms of the law passed in 1968, primarily because it was an easily concealable, non-sporting handgun. My bill applies the same standards to domestically manufactured or domestically assembled handguns. These—importation—criteria

were established by a Treasury Department Committee composed of specialists from the firearms industry, weapons research firms and military, and law enforcement officials. These experts found it necessary to include a wide variety of handgun characteristics in determining whether any given model is unsuitable for target shooting or hunting animals. The key characteristic is overall size, and therefore no handgun failing to meet certain minimum size standards can be accepted under the criteria. Various safety features are also required before a weapon is acceptable. Other characteristics are dealt with by means of a point system, in order to allow flexibility of design consistent with the sporting purposes standard. The point system takes into account the following characteristics:

First. Size: weapon size beyond the minimum requirements is counted.

Second. Frame construction: additional points are awarded if the weapon is investment cast or forged from steel or a suitable alloy. No points are awarded for use of the die casting process or the alloys typically used in Saturday night specials.

Third. Weight.

Fourth. Caliber: a greater number of points are awarded for weapons designed to be used with high-powered cartridges. This tends to insure that an approved model will be designed to withstand high chamber pressures.

Fifth. Safety features: points are awarded for various safety devices other than those which are absolute requirements.

Sixth. Miscellaneous equipment: under this heading, points are awarded for such sporting devices as click or drift adjustable target sights, target grip, and so forth.

The application of this test is designed to determine whether a handgun has a sporting purpose. A firearm such as an Olympic type pistol or target shooter designed for sport are clearly not covered by the measure's provisions.

These criteria, known as the factoring criteria for weapons, have been used for more than 5 years to determine eligibility of handguns for importation. Their effectiveness in limiting importation of assembled nonsporting crime handguns is clear. Prior to the passage of the Gun Control Act of 1968, annual importation of such handguns had been increasing rapidly. Since congressional action in 1968, handgun importations have been substantially lower than previous levels. Handgun imports in that year had risen to 1,155,368, but have been reduced to a level of 408,485 in 1974 and even lower levels in intervening years. Thus, since their enactment millions of crime handguns have not reached our shores because of the operation of these proven criteria.

The testimony of these statistics is borne out by the testimony of those charged with administering the import provisions of the 1968 act. At the 1971 hearings on Saturday night specials, Harold Serr, Director of the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service from 1964 until his retirement on July 31, 1970, testified that the factoring criteria "effectively exclude from importation the types of handguns so often found in the possession of criminals and which the Congress wanted kept off the American market."

In the fall of 1971, 22 witnesses, representing law enforcement agencies, national commissions, the administration, sportsmen's associations, and private citizens, presented testimony on this title of my bill to the subcommittee. All of these witnesses agreed that the problem of small, easy to conceal handguns required action. Most of the witnesses felt that the passage of S. 2507 would be a step forward in the fight against violence and criminal misuse of these weapons.

Witnesses representing police departments and police organizations, understandably stressed the danger to police officers created by the widespread possession and use of "Saturday night specials." As Quinn Tamm, executive director of the 11,000 member International Association of Chiefs of Police explained, the ready accessibility of handguns "constitutes a threat, both to the citizen and more specifically to the police officer." The national legislative committee chairman of the 150,000 member Fraternal Order of Police, Jack Stonebraker, Jr., who is a police officer in Muncie, Ind., echoed this point, citing the words of the late J. Edgar Hoover:

"When a law enforcement officer dies at the hands of a killer, part of our system of law dies with him."



Mr. Stonebraker also illustrated the policeman's concern for the welfare of other citizens:

"I believe the Congress must act, must act, upon this amendment without delay, before the incidence of criminal misuse of these guns reaches astronomical proportions."

Chief Clarence Kelley of the Kansas City, Mo., Police Department, now the Director of the Federal Bureau of Investigation, echoed the view that these guns "have no possible other use than to kill or injure another human being." Similar views were presented by law enforcement representatives from New York City, Los Angeles, Detroit, Washington, D.C., and Cleveland, Ohio.

Clearly this title has the support of the Nation's law enforcement professionals, the police officers who face armed criminals on the streets of our Nation's cities. These people who know first-hand the "Saturday night special" problem, urged the passage of my bill to plug the loophole in the 1968 act and thereby curb the availability of these non sporting handguns favored by most criminals.

Of course, the measure makes it absolutely clear that there would be certain exemptions from the prohibition on the sale and delivery of those handguns, including exemptions for law enforcement officers, governments, research organizations and licensed collectors. The title exempts sales and deliveries of handgun models actually required by officers, for example, plainclothespersons, for their own use in the course of their official duties. Further technical provisions facilitate sale and delivery to Government and law enforcement officers. These provisions were necessary to allow purchase of firearms for Government and law enforcement use from manufacturers in other States. Such exemptions are analogous to those already in the 1968 act.

Some who later supported my approach in 1972 would have replaced the detailed standards in my bill with a safety and reliability test. It is my view that this is not an appropriate standard for use in a law enforcement and crime prevention measure. The law enforcement witnesses who testified before the subcommittee did not appear greatly concerned about the safety of the "Saturday night special" as a problem for the user of the weapon. They were, understandably, more concerned about safety at the other end of the barrel. Of course, the safety of the legitimate user is of importance, and my bill takes this into account by requiring sound construction and certain safety features for sporting handguns. Safety and reliability tests alone, however, would not get the job done. Even if the safety and reliability test were supplemented with a barrel-length criteria, it would do little to restrict the availability of the crime guns which would be effectively curtailed by title II of my Handgun Crime Control Act. What should be emphasized are those aspects of a handgun which make it uniquely appealing to the criminals. Harold Serr put it quite succinctly:

"What [criminals] want are small, compact, lightweight weapons. They want weapons with no handgrips or sights to catch in a pocket. Concealability is the prime requisite."

It is for just this reason that every State in the Union has taken some sort of action to regulate concealed weapons, rather than unreliable weapons. By definition, however, it is exceedingly difficult to enforce these important regulations dealing with the use of concealable weapons, and the continuing rise in the firearms crime rate demonstrates clearly that more has to be done. Additionally, to prevent further circumvention of congressional intent to curtail the availability of easily concealable handguns, my bill, similar to the National Firearms Act sawed-off shotgun provisions, prohibits sawing off the barrel of a handgun so as to produce a weapon which could not legally be sold.

Unfortunately, considerable misinformation has been spread, in some cases by honest misunderstanding and in others by deliberate distortion, regarding the scope of this title of my new bill. It does not propose any type of gun registration or licensing. Nor does it propose confiscation. I am aware that some are concerned that if it becomes law the next step will be confiscation of all firearms or national registration. To say that abolishing the sale of crime guns, which have no sporting purpose, will lead to the confiscation of legitimate weapons, makes about as much sense as saying that a law keeping dangerous cars off the highways will lead to the confiscation of all cars.

For a very simple reason this measure only affects handguns: most "street crimes" are committed by criminals with easily concealed handguns. This is why our target is those handguns which are worthless for the target shooter or hunter, but which are ideal for the criminal. We do not want to interfere with

the rights of honest, law-abiding sportsmen, but rather to keep murderous instruments out of the hands of the criminal and insane. In addition, there is nothing in the bill which precludes law-abiding citizens from purchasing reliable handguns to protect their homes or businesses.

After my approach to fighting gun crime was accepted by the Senate, the House Judiciary Committee failed to act on this measure. There are signs this year however, which indicate that perhaps that body will be more favorably disposed to reasonable controls on crime guns in the future.

There are also signs that those with law enforcement responsibilities and expertise within the administration are supportive of new initiatives to curb firearms crime and terrorism.

I am especially interested to learn more about the details of the Attorney General's proposals. For example, he indicated that the Department of Justice has been discussing the elimination of easily concealable handguns. I was surprised, however, that they determined no suitable definitions exist to implement this policy. This, of course, is precisely what my approach would accomplish.

I was gratified by David R. McDonald's, Assistant Secretary of Treasury for Enforcement, Operations and Tariff Affairs, testimony before the subcommittee in April this year in which he supported a modified criteria targeted at easily concealed handguns.

This is not the first time however, since 1968 that administration representatives expressed support for congressional efforts to curb the availability of non-sporting handguns. In fact, representatives of former Attorney General Mitchell in 1969 and 1971 in testimony before the subcommittee assured the Congress on both occasions that administration proposals would be forthcoming. These proposals, if indeed they ever existed, never saw the light of day. Thus, although I am encouraged by some recent remarks, I would be less than candid if I did not admit that earlier rhetoric and indifference about these important issues only confirmed the former Attorney General's enjoiner that it was more important to watch what is done than what is said. You do not stop armed assaults and armed robberies with tough talk and hollow promises.

The Attorney General has assured the subcommittee that he will be available to present their view after the soon-to-be delivered message on crime. I am looking forward to learning more precisely what position the administration supports on this vital issue.

I agree with the distinguished senior Republican on the House Judiciary Committee, Mr. Robert McClory, who appropriately noted last week that "the executive branch apparently has not recognized the critical nature and extent of the problem of handgun violence in this society." Leadership on issues of national importance must emanate from the Oval Office, but unfortunately to date on these issues, it has been tragically silent.

Handguns are increasingly available. More were manufactured and sold in the last 4 years than the entire previous decade.

It is my intention by extending to domestic sales the criteria now used to prohibit imports to strictly limit the accessibility of crime handguns without, in any way, altering present Federal, State, or local regulations concerning rifles, shotguns, and quality handguns suitable for sporting purposes.

#### GUN RUNNING AND PENALTIES FOR GUN CRIMES

Title III of my bill addresses itself to several major problems relative to our failure to deal more effectively with the alarming levels of violent crime confronting all of our communities, suburban and rural as well as urban: Illicit gun traffic and criminals who use guns in the commission of crimes.

The first part of this title is identical to a measure that Senator Talmadge and I sponsored which passed the Senate on April 3, 1973 by a vote of 81 to 12. It is specifically designed to make our streets safer by treating those who use firearms in the commission of crime as the serious and vicious violators they are by imposing the severe sentences such acts demand and such criminals deserve.

Under my bill felons who use firearms to rob, rape and otherwise terrorize our citizens or who unlawfully carry firearms while committing a felony which threatens life or property, are subjected in addition to the penalties already provided by law, a minimum sentence of 5 to 15 years for the first offense and 10 to 30 years for the second offense. The imposition of the additional sentence on



the first offender would be left up to the trial judge; but if he failed to impose this additional sentence, he would have to state his reasons publicly. For the second offense, the judge would have no such discretion: upon conviction, a mandatory minimum sentence of 10 to 30 years would have to be imposed. These minimum sentences—which are of course, over and above the penalties which exist in present law—could not be suspended, nor could probation be granted.

The United States leads all other western countries in the use of firearms in connection with serious crimes. My earlier discussion of title II underscored the catastrophic levels to which handgun crimes in particular have risen and I believe that its provisions will make a significant contribution toward safer communities. Likewise, I also believe that penalties of the severity contained in title III are appropriate for those who use firearms in highly dangerous illegal activity.

This practical approach which focuses on the crime in which guns are used, was not considered by the House Judiciary Committee after it passed the Senate. I am hopeful that the House will follow the lead of this body on this most effective crime deterrent during the current Congress.

Title III also strengthens existing federal law to facilitate efforts to detect and prevent illicit commerce in firearms. The relationship between the illicit availability and street crime was clearly demonstrated at the subcommittee's April hearings on firearms violence.

Under the 1968 Gun Control Act persons who have been convicted of serious crimes cannot legally obtain or transport firearms. Each year, however, criminals in this country obtain thousands of firearms through illegal means and subsequently use many of these weapons to continue the commission of violent felonies.

A great number of these firearms are stolen from gun manufacturers, dealers, and collectors but the exact number or the circumstances of these thefts are not known. The Bureau of Alcohol, Tobacco, and Firearms estimates that approximately 5,000 handguns are stolen each year while being shipped between firearm manufacturers and dealers. An unknown additional number are stolen directly from manufacturers. A voluntary survey of 22,779 gun dealers in nine Midwestern States revealed that 5,919 firearms were stolen from their stores in 1974. One store owner in Illinois had over 100 firearms stolen in the survey period.

Although the Gun Control Act requires dealers, manufacturers, and collectors to maintain records of the receipt and disposition of firearms, the act does not presently contain any provision requiring them to report the theft of firearms to any Federal, State, or local law enforcement agency. Obviously this source of supply to the criminal must be closely monitored and analyzed in order that we may deprive violent criminals of the instruments of crime.

Accordingly, my bill amends the Gun Control Act to require manufacturers, dealers, and collectors to promptly and fully report to the Secretary of the Treasury all thefts of guns and the circumstances surrounding those thefts. It is only when we have the capability to precisely establish where, how, and when firearms are being stolen from manufacturers and dealers, that we can expect to be able to successfully close off this supply to criminals.

It is also apparent that some persons who purchase large amounts of firearms are subsequently selling them to felons and other individuals who are themselves prohibited from buying firearms under the Gun Control Act. One noteworthy and illustrative case found by subcommittee investigators concerned an individual in Philadelphia who purchased a total of 136 handguns from a federally licensed dealer over a 7-months period. This person would in turn resell the firearms out of his car trunk throughout the Philadelphia area. My bill would enable the Government to more easily monitor this type of gun traffic by requiring licensed firearm dealers to notify the Secretary of any multiple handgun purchase by a single individual over the course of 5 consecutive business days.

In addition to the theft of guns and the repurchase of guns through an intermediary, a significant number of felons obtain weapons directly from licensed firearm dealers. Although the Gun Control Act prohibits such transactions, Treasury Department officials testified before the subcommittee that a thorough review of 17 dealers' records in Greenville, S.C., over a 6-month period last year revealed that 73 persons who had successfully purchased firearms were in fact convicted felons. Some of the crimes committed by this group prior to the purchase of these weapons included murder, rape, assault, and armed robbery.

Except in three narrowly drawn circumstances, the Gun Control Act also

specifically prohibits manufacturers and dealers from selling firearms to persons who do not reside in the same State as the manufacturers or dealers. It is evident, however, that despite this prohibition many firearms are in fact sold to persons who do not reside in the same State. For example, in a recent study it was established that out of the 840 handguns used in crimes in Detroit, Mich., and successfully traced to their source, 92 percent came from outside the State of Michigan. A similar study in New York City found that 77 percent of the traceable guns used in crimes came from outside of New York State.

An important element of the intent and purpose of the Gun Control Act is to keep firearms out of the hands of violent criminals such as these. Wholesale violations of this act cannot be taken lightly. My bill provides mandatory penalties for felons or those under indictment for a felony who receives, ships, or transports firearms or ammunition in interstate commerce. It also applies the same mandatory penalties to any licensed importer, licensed manufacturer, licensed dealer or licensed collector who knowingly sells or otherwise disposes of a firearm or ammunition to a felon or a person under indictment for a felony. Moreover, any dealer who sells firearms to a person who the dealer knows or has reasonable cause to believe does not reside in the same State in which the dealer is doing business, would also be subject to mandatory penalties.

We must treat the illegal sale or purchase of these dangerous instruments of crime as serious offenses. The successful disarmament of the violent criminal is an absolute necessity for the reduction of crime and the fear of crime in America.

#### MADATORY PENALTIES FOR OPIATE-NARCOTICS PUSHERS

Title IV of my bill is identical to a measure which passed the Senate in April 1973 by a vote of 81 to 12. It is aimed at another class of the most dangerous and despicable criminals: the nonaddict, adult high-level traffickers who are the backbone of illicit heroin trade and distribution in this country.

Since the passage of the Comprehensive Drug Abuse Prevention and Control Act—Public Law 91-513—in 1970, our Subcommittee To Investigate Juvenile Delinquency, which developed this measure, has monitored its implementation and sought to assure that the Federal agencies responsible for its enforcement acted appropriately to curb the illegal importation, manufacture, and distribution of controlled drugs. Among its provisions are those on the importation, manufacture, and distribution of opium for legitimate purposes and the illegal traffic and abuse of opium derivatives such as morphine, codeine and heroin.

Since 1970 we have monitored the implementation of the act and sought to assure that the Federal agencies responsible for its enforcement acted appropriately to curb the illegal importation, manufacture, distribution, possession and improper use of controlled drugs.

We have made considerable progress in the last several years. We have obtained a drastic, but necessary, 95-percent reduction in domestic amphetamine production. We have secured more appropriate control over our production and distribution of other drugs with high abuse potential, including the barbiturates and methaqualone. And to prevent illegal traffic and abuse of methadone we have obtained stricter controls over its storage and distribution. In short, these and similar important steps have effectively helped to reduce illicit traffic and clandestine manufacture of controlled drugs.

The subject of our most recent hearings on the effectiveness of the Nation's drug control laws—the opium poppy—is not of domestic origin, but its byproducts, or at least one of them—heroin—is certainly familiar to every American.

Indeed, we are all too familiar with the devastating effects of heroin on the individual addict, their families, and society at large. We know that heroin abuse has destructive physiological consequences, debilitating the health of the abuser and impairing an addict's ability to lead a normal productive life. The social consequences are equally devastating. In order to support a habit, the addict is driven to engage in criminal activities which threaten the safety and well-being of all our citizens. The costs in human and economic terms are enormous:

Billions of dollars are expended each year to protect our citizens from drug-related crime;

Billions of dollars of merchandise are stolen each year to support heroin habits;

Billions of dollars are invested annually in drug prevention, treatment, and rehabilitation programs;

Many innocent people are physically assaulted and even killed in the course of drug-related crime; and



Hundreds of thousands of otherwise productive lives are lost to the destructive and often endless cycle of heroin addiction.

We have learned—and through the course of these recent hearings are still learning—from bitter experience that there are no simple solutions to the epidemic of narcotic addiction nor to the ever-escalating levels of illegal narcotic traffic. There are no panaceas—no magic wands.

In fact, opium control presents especially difficult and complex considerations. The plant which spawns heroin to which our citizens succumb, likewise, issues drugs to ease the misery of the terminal cancer patient and ironically, provides us with the antagonist medication necessary to treat those suffering acute narcotic overdose. There is little doubt that the opium poppy is a double-edged sword life-threatening and life-saving.

We have made some progress in curbing narcotic traffic and addiction, but we must be forever vigilant that rhetoric about “the light at the end of the tunnel” or “turning the corner” on any problem not delude us into believing that we have actually accomplished our objectives.

According to June 1974 Drug Enforcement Administration—DEA—reports, drug deaths have increased substantially at the national level in the last two quarters of fiscal year 1974, with the major increases being made in the heroin, morphine and methadone categories. Geographically, heroin deaths have climbed in the Northeast, Central and Western sections of the United States.

Mexico is becoming a significant supplier of the heroin reaching United States markets for illicit distribution. DEA statistics show that in the year ending June 30, 1972, 8 percent of the heroin seized in the United States was Mexican. By June 30, 1973, the amount of seized heroin from Mexico had more than quadrupled and accounted for 37.2 percent of all heroin seized in the United States. Within the past few months DEA has informed the subcommittee that 65 percent of the heroin reaching the United States today comes from Mexican poppies.

Now, even White House officials, as they announce that all the indicators of heroin abuse are up again, are cautioning others about claiming victory in the war against the poppy and heroin. In fact, Dr. Robert DuPont, Director of the White House Special Action Office on Drug Abuse Prevention, told the subcommittee that “we can no longer talk about having turned the corner on heroin anywhere.”

Last week the President's Strategy Council on Drug Abuse reported that heroin addiction and other abuse lost Americans between \$10 billion and \$17 billion annually and that the biggest drain on the economy from drug abuse was in crimes committed to produce income supporting heroin addiction.

A recent report from the District of Columbia coroner's office revealed a decided increase in heroin fatalities. There were 12 such deaths in the last 5 months of calendar year 1974 following a 19-month period with fewer than 10 heroin deaths.

D.C. officials claim that this upswing is related to the availability of a better grade of heroin. In January 1973 the average heroin bought on the street was 1.8 percent pure, according to police reports. By December 1974 this had increased to 4.5 percent pure. During the same period the street price of heroin dropped from a high of \$6.04 a packet in July 1973 to \$3.34 in December of 1974.

More persons are seeking treatment for heroin addiction. In December, for example, all but 39 of Philadelphia's 4,173 patient treatment spaces were filled. A year ago clinics were operating at only 65 percent capacity. And according to DEA the estimate of narcotic abusers in 1974 rose to 775,000 the highest year on record. Clearly much remains to be done.

Through our investigation the subcommittee intends to develop a better understanding of the ramifications of the public policy developed by the Nixon administration to curb heroin traffic and abuse and whether or not the current administration has learned from their mistakes. What led to the ban on the Turkish poppy? What consideration, if any, was given to the domestic requirements for opium to meet legitimate medical and scientific needs? What is currently being done to prevent the resurgence of a new “French Connection” and to eliminate the “Mexican Connection” which now supplies two-thirds of the illegal heroin to the United States?

I am especially concerned about the possibility that the United States may not have access to sufficient opium to meet legitimate medical and scientific needs. As you know, opiate derivatives are currently the drug of choice in the treatment of many patients with severe and moderate levels of pain and fre-

quently prescribed by physicians for other symptoms. Unfortunately, continuing demand for these drugs coincides with a worldwide shortage of increasing dimensions.

We are assessing the nature and extent of this shortage.

We are reviewing the circumstances which have nearly exhausted, in 1 year, the opium supply released from the national strategic stockpile last year ostensibly to supplement short-term needs through 1976.

We are examining the basis for the Attorney General's recent decision to exercise emergency authority under the 1970 Drug Act to permit the importation of poppy straw extract to supplement imports of crude opium.

And we are assessing the merits of proposals for a program of rationing bulk codeine so as to meet legitimate medical demand this year.

I am likewise extremely concerned that all necessary steps be taken to prevent the diversion and traffic in Turkish opium that has formerly contributed so heavily to the destruction of so many thousands of lives and was so intimately linked to the ever-escalating levels of violent crime.

The Turkish Government claims that it will prevent the new opium crop from getting into criminal channels. The resort to the poppy straw method of processing will help to assure the desired objective, but much more is necessary. To date slightly more than 300 agents are reportedly available to monitor 50,000 acres of poppies being cultivated in small plots. The jeeps necessary to reach remote areas as I understand it have not yet arrived. To get the job done will require a dedicated and committed effort by the Turkish Government.

I urge the President to monitor the harvesting and processing of the new crop very carefully, so that if necessary he can take appropriate action under the Foreign Assistance Act to suspend economic and military aid.

When drastic action was taken to rescue American seamen seized by Cambodia, the President stressed the importance of showing that the United States intends to remain strong. If and when the lives of thousands are threatened by diverted Turkish opium, I hope that the President is at least equally committed and willing to show the strength of the United States.

Already the Turkish decision to again cultivate the poppy has made some impact on the illicit market. In Seattle, for instance, the resumption reportedly prompted many distributors to release "stockpiled" Mexican heroin which had been withheld from the market in an attempt to force the price up. This surge in supply has led to more narcotic seizures in January of this year than in all of 1974 in that area. Similar reports are being received from around the Nation.

Whether the Turkish Government fails to hold to their commitments or not, we are again confronted with a horrendous heroin trafficking problem.

Title IV is designed to deal appropriately with persons who are an integral part of the criminal conduit for heroin. I have been very much concerned that our laws try to reform and as much as possible is done to provide rehabilitation, employment and treatment options. Because of these concerns juveniles and addicts have been excluded from this title's provision. But for others who sell heroin, I have no compassion. These criminals have shown themselves by their offenses to be beyond the normal hope we hold out for rehabilitation in our society. Moreover, these offenders are the cold calculating characters who can be deterred by the specter of sure, swift and severe punishment. The only solution for those who are not deterred and who commit these crimes is to put them away and to put them away for a long time. This is what my bill does.

There is no criminal element in this country which is more dangerous and despicable than those who are the purveyors of heroin to our young people. My bill is not aimed at addicts who are already hooked and who are trying to support their habits. For such people, laws already on the books and adequate treatment—together with the capture and imprisonment of big time dealers—offer the best hope. My target is those who have hooked others and not themselves.

Under this title persons convicted of manufacturing, distributing or dispensing heroin or morphine in amounts equal to or in excess of one-tenth of an ounce of pure narcotic would receive, on the first offense, a mandatory minimum sentence of 10 to 30 years. For second convictions, these pushers would get a mandatory life sentence. In neither case would the offender be eligible for probation, suspended sentence, or parole—except after serving 30 years of a life sentence. In both cases the mandatory minimum sentence would have to be imposed in addition to the sentence provided under existing law; and in both

cases the additional sentence would have to be consecutive to, not concurrent with, the existing punishment.

One-tenth of an ounce of heroin or morphine may seem to be a tiny amount, Mr. President, but it is as deadly as it is small. It can and is turned into a large number of bags of heroin on the street, and is worth a handsome sum. As a measure of the seriousness of the criminal conduct it is preferable to a 4-ounce mixture requirement proposed by some in the past. It best assures that we reach the high-level dealers who handle very pure and very valuable heroin and who might circumvent a 4-ounce mixture standard. This test also assures that we do not bring under these very severe penalties a person with a 4-ounce mixture which contains only traces of a narcotic. Under this approach the volume of the material sold or manufactured would not matter; the only question would be whether it contained the equivalent of one-tenth of an ounce of pure heroin or morphine.

The following table, prepared by subcommittee staff, illustrates graphically the amount of heroin involved in the application of my bill:

ESTIMATES OF HEROIN DOSAGE UNITS DERIVED FROM 1/10 OUNCE OF PURE HEROIN OR MORPHINE

Total units.....	Unit size (milligram bags)	Percent of heroin or morphine
a. 2,835.....	100	1
b. 1,417.5.....	100	2
c. 945.....	100	3
d. 708.7.....	100	4
e. 567.....	100	5
f. 472.5.....	100	6
g. 405.....	100	7
h. 354.3.....	100	8
i. 315.....	100	9
j. 283.5.....	100	10

Note: 1. 1 ounce=28.35 grm. or 28,350 mgms. 2. 1/10 ounce=2.835 grm. or 2,835 mgms.

Any nonaddict who manufactures, distributes or dispenses one-tenth of an ounce of heroin or morphine is, we can be confident, a high-level trafficker, who is rationally and for profit pushing drugs. Such a person deserves no quarter.

The provisions of this title were also not acted upon by the House Judiciary Committee in the last Congress, but I am optimistic that the members of the other body will agree to the merit of this aspect of my bill.

One thing that we have established through our hearings earlier this year is that the White House was less than candid with Congress and the American people regarding their assessment of the importance of the Turkish ban on the cultivation of opium poppies in the effort to curb heroin traffic and addiction.

Former presidential assistants with special responsibilities in the areas of drug control and abuse told the subcommittee that in October 1971 shortly after the Turkish Government announced the ban, that the plan was ill-conceived.

Dr. Jerome Jaffe, former Director of the White House Special Action Office testified that he never believed that a ban on the growth of opium poppies would be effective in stopping the spread of heroin in the United States.

Mr. Walter Minnick, former Presidential aide, told the subcommittee, quite candidly, that:

"The Congress and the American people were led to believe that the ban was an indispensable part of getting on top of heroin addiction."

Throughout 1972 the White House produced release after release, heralding the Turkish ban as a major breakthrough in the fight against heroin addiction and as clear evidence that the battle was well on its way to being won. This "hoopla" about the ban stepped up markedly during the fall of that year.

Apparently the Nixon administration was more concerned in 1972 with the reelection campaign than they were about controlling poppy production and solving the heroin problem.

The record developed to date by the subcommittee leaves little doubt that the Nixon administration not only created a misimpression about the ban and the policy of eradication, but that it had little time, if any, to heed the caution and advice of medical experts and others who warned that such policies could have long-term damaging ramifications.

Even prior to former President Nixon's message to the Congress in June 1971, which set out the dual objectives of a ban on poppies and the development



of synthetic alternatives to opiates, agencies experts in a confidential memorandum had alerted the White House to likely ramifications, including a shortage of opium for legitimate purposes.

Testimony presented to the subcommittee, however, revealed that White House advisers reportedly had decided that the poppy ban was "good politics" in that it would provide a high-profile, simple, ostensible answer to the crime problem with which heroin addiction and traffic are so intimately associated.

Even in late 1972 and 1973 when the prospect of an opiate shortage was rapidly becoming a reality, the White House ignored warnings by the medical community and others that White House "poppy politics" was responsible for the shortage as well as for the failure to effectively focus on heroin traffic.

In a very short period of time Mexico had become the primary supplier of heroin to the United States and although the Turkey ban did cause a shortage of heroin it was, as General Accounting Office investigators told the subcommittee, limited to major cities in the East and "a temporary thing at best."

The heroin problem now is worse than it was before the ban.

The American people are sick and tired of being sold a bill of goods.

As a member of Congress who has, likewise, relied on less than candid representations at the highest levels of the executive branch in recent years, I know we were sold a bill of goods in this instance.

We are interested in developing a full and complete understanding of these issues so that sound national policies in the area can be substituted for past mistakes.

We are also anxious to learn more about what happened to the 1971 national initiative to develop synthetic alternatives to opium, so that our medical community would no longer have to rely on the poppy to properly treat its patients and in turn would eliminate a major legitimate reason for growing the poppy.

We are, likewise, interested in developing a fuller understanding of the feasibility of cultivating poppies, particularly those with little or no abuse potential, including bracteatum to meet our legitimate medical needs as well as the plan approved by former President Nixon in December 1973, revealed at our earlier hearings, to grow opium poppy domestically.

We want to develop long-term policies which will protect the delicate balance between the need to curb illicit availability of drugs and the need to assure amounts adequate to meet legitimate needs.

I know my colleagues agree that this title of my bill is consistent with those objectives and they will support it.

#### PHARMACY CRIME AND VIOLENCE

During the course of the subcommittee's ongoing assessment of the effectiveness of the Nation's drug control laws we were startled by the increasing amount of criminal acts directed at pharmacies.

It appears that as a consequence of important steps taken in recent years to reduce illicit traffic and clandestine manufacture of controlled drugs, pushers and others are concentrating their attention on legitimate sources for such drugs, particularly pharmacies.

Subcommittee hearings on this topic more fully reported in our volume "Drug Abuse: The Pharmacist" revealed that 30 percent of all the thefts controlled drugs from registrants were from pharmacies and that 89 percent of all drugs stolen from registrants were taken from pharmacies. Almost half of the total volume of drugs stolen are amphetamines and barbiturates. During fiscal year 1974, 6,320 such thefts were reported from pharmacies as contrasted with 4,333 for fiscal year 1973.

The preferred method of theft was night breakin, but armed robbery was second. In December 1974, DEA reported that 62 percent of the thefts involved the former and 38 percent involved the latter method of theft.

I am particularly concerned about escalating levels of violent crime—assault, robbery, and even murder—committed by criminals attempting to obtain controlled drugs. Witness after witness conveyed evidence of the necessity for action as well as support for a Federal effort to meet these problems.

Senator Church, with whom I have worked closely on this title of the act and who sponsored a similar measure last Congress, caught the changing environments in which even our pharmacists are found to work when he noted.

"It is not uncommon now to learn of pharmacists wearing bullet-proof vests to work or hiring armed guards to police the premises."

My bill imposes a Federal penalty for the robbery or attempted robbery of a controlled substance from a pharmacy. It provides a maximum fine of \$5,000 and/or 10 years imprisonment for persons acquiring drugs covered by the Controlled Substance Act from a pharmacy by force, violence, or intimidation. In addition it provides more severe penalties for persons who physically assault and/or kill persons while engaged in a robbery of a pharmacy.

This title was developed to meet the challenge of ever-changing and increasingly complex patterns of drug traffic and related crime. Druggists and pharmacists are dedicated professionals who with their fellow-workers dispense drugs which are vitally necessary to the maintenance of our citizens' health. These provisions provide additional sanctions to attempt to guarantee that they are unfettered from the burden of criminal acts.

The Department of Justice and the administration has in the past opposed passage of similar sanctions designed to protect pharmacies, in part because of the estimated additional cost of \$4,800,000 for law enforcement personnel to carry out its provisions, I urge them to reconsider and this Congress to support this vitally necessary title of my bill.

#### REPEAT VIOLENT OFFENDERS

Under the Federal Youth Corrections Act, convicted defendants under 22 years of age, and in some cases under 26 years of age, are not sentenced to regular terms of imprisonment, but are entrusted to the custody of the Attorney General for special rehabilitative and treatment programs. The terms of confinement for persons sentenced under the special provisions of this act are considerably shorter than those persons sentenced under usual adult statutes. Moreover, as presently constituted even offenders who repeatedly commit violent crimes may take advantage of the special sentencing and treatment programs provided by the act.

Although many young people are successfully rehabilitated through the special sentencing provisions of Youth Corrections Act treatment, it should be obvious that the serious, habitual offender must be removed from our streets so that our citizens can live in security and safety in their homes and communities. Individuals who have repeatedly committed violent criminal acts have clearly demonstrated not only their contempt for the laws and members of our communities, but also their unwillingness to take advantage of, and learn from, the opportunities afforded them under the Youth Corrections Act. When 420 out of a total of 720 young offenders released under Youth Corrections Act provisions are charged with new crimes while still on parole, as was shown in a recent study, it is abundantly clear that we must take steps to limit the number of defendants who may qualify for special treatment under this act.

We must insure that the act serves as a valid instrument of rehabilitation and not as a loophole through which habitually violent offenders quickly return to our streets to resume their criminal activity.

Title V of the measures which I am introducing today would prohibit offenders who have previously been convicted of violent crimes from being sentenced under the special provisions of the act. These amendments to the Youth Corrections Act will insure that hardened, violent offenders will be sentenced to normal criminal penalties and will not be able to use the more lenient and shorter sentencing periods of the Youth Corrections Act as a form of "turnstile" incarceration which only serves as a brief interlude between repeated criminal activities.

Additionally, I intend to review other aspects of the Youth Corrections Act concept including problems concerning the lack of more specific criteria to assist sentencing judges in determining which offenders should qualify for treatment under the act and what factors should be considered in that decision. In the course of this subcommittee investigation I will be seeking the suggestions and advice of experts such as U.S. Court of Appeals Judge David Bazelon and District of Columbia Superior Court Chief Judge Harold Greene as well as others of their judiciary colleagues who have developed unique insight and familiarity with the strengths and weaknesses of the act.

The provisions of this title and the criteria we develop for initial application of the Youth Corrections Act will serve to assure that those who are serious threats to the community do not use the act as a shield against the community.

Mr. President, the Violent Crime and Repeat Offender Control Act of 1975 is designed to make life difficult for violent criminals. This bill, coupled with my

Juvenile Justice and Delinquency Prevention Act, which the Congress overwhelmingly endorsed last year, provide the tools necessary to put the Federal Government in an effective leadership position in the fight against violent crime.

As I have noted, significant portions of the bill introduced today have been strongly supported by this body in past Congresses. I have been proud of the support of my colleagues for these endeavors and hope that the House will follow our lead this year.

I urge my colleagues to study the bill's provisions and solicit your advice and recommendations for improvements.

Many of our citizens are captives in their own homes. Criminals are their jailers and fear of violent crime the deterrent to their freedom of action. I believe that this measure will help to turn this situation around so that our citizens, free from the terror of violent crime, can more readily pursue the lives of liberty and happiness we all desire.

We must not deceive ourselves, however, into believing that harsh penalties will solve our problems. Even with those who can be deterred from criminal conduct, the enforcement of the law—the certainty of capture and of punishment—is more important than the length of punishment. But by making the penalties mandatory and severe for certain persistent and destructive criminals, we will be providing a solid law enforcement tool where such tools are badly needed. By keeping murderers' weapons out of the hands of criminals we will be helping to reduce crime and protect the right of law-abiding citizens.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill, together with the bill, be printed at this point in the Record.

There being no objection, the analysis and bill were ordered to be printed in the Record, as follows.

#### SECTION-BY-SECTION ANALYSIS OF THE VIOLENT CRIME AND REPEAT OFFENDER CONTROL ACT OF 1975

##### "TITLE I—FINDINGS AND DECLARATION OF PURPOSE

"Section 101. Findings: States the findings of Congress regarding small, usually inexpensive and non-sporting handguns as the favorite instrument of violent criminals and its intimate relationship to soaring rates of violent handgun crimes; finds that criminals who commit felonies with firearms and those who traffic in significant amounts of narcotics are public menaces; finds that pharmacies are not adequately protected against violent criminal acts under the Controlled Substances Act, and that repeat violent offenders require fair but firm sentencing.

"Section 102. Purpose: Establishes the purpose of the Act to assist law enforcement officers to curb violent crime and facilitate the prosecution of violent offenders; to prohibit the sale of small, easily concealable, usually inexpensive, non-sporting handguns except to law enforcement officers, governments, and research organizations; to provide for the facilitation of prosecution of those involved in handgun theft or illicit handgun trafficking; to assure appropriate penalties for non-addict pushers of significant amounts of narcotics and criminals convicted of using firearms in the commission of illegal acts; to provide additional protection for pharmacies against an ever-increasing level of violence directed at obtaining controlled drugs; and, to eliminate favorable sentencing alternatives for persons previously convicted of violent crimes.

##### "TITLE II—HANDGUN CRIME

"Section 201. Title: This section contains a title cited as the 'Handgun Crime Control Act'.

"Section 202. Amends section 921(a) of title 18, United States Code, to provide two new definitions:

"Handgun: a firearm designed to be fired by the use of a single hand. Antique weapons are excluded, as they are excluded from the definition of a firearm in the Gun Control Act of 1968.

"Handgun Model: refers to a handgun of a particular design, specification and designation. (e.g., 'Chapter Arms .38 Special, 2-inch barrel, regular grips.')

"Section 203. Sale and Delivery Ban: Amends section 922(b) of title 18, United States Code, by adding a new paragraph (6) outlawing the sale or delivery by licensed dealers, licensed importers, licensed manufacturers, and li-



censed collectors of any handgun model unless the Secretary of the Treasury has specifically approved the model according to standards set forth in Section 204 of this Act. The Standards in Section 204 are designed to exclude handguns which have no particular sporting purpose.

"Exemptions. Sale and delivery to research organizations, governments, and law enforcement officers are exempted. Sale and delivery of curios and relics (defined as in the Gun Control Act) to licensed collectors and dealers are also exempted. Further technical provisions facilitate sale and delivery to governments and law enforcement officers. These exemptions are analogous to exemptions already in the Gun Control Act.

"Section 204. Standards for Handguns. This section adds two new subsections, (n) and (o), to section 922 of title 18, United States Code.

"*Subsection 922(n)*: Requires that the Secretary not approve any handgun which fails to meet certain standards. These standards are basically identical to those which the Secretary of the Treasury established under section 925(d) (3) of the Gun Control Act of 1968, which banned the importation (but ignored the domestic production) of guns not 'particularly suitable' for 'sporting purposes.' These criteria are precisely specified in paragraphs (1) and (2) of this subsection, providing an objective Congressional definition of the sporting purposes test for handgun sale and delivery. Foreign and domestic handguns would be treated alike.

"*Subsection 922(o)*: Prohibits reduction of the external dimensions of a handgun already approved by the Secretary (for example, sawing off the barrel) so that the handgun could no longer be approved. This is analogous to the National Firearms Act's regulation of the making of sawed-off shotguns.

"This section also establishes a review and appeal process for licensees who wish to submit a handgun for testing to determine if it qualifies for sale or distribution under the Act.

"*Section 205. Import Restrictions.* This technical amendment to section 925(d) (3) of title 18, United States Code, substitutes the detailed criteria of section 922(n), above for the general language of the 'sporting purposes' test for importation. This carries through the intent to provide an identical test to cover both foreign and domestic handguns.

"*Section 206.* This section amends section 922(a) (3) to allow a person to receive in the state where that person resides one sporting rifle or sporting shotgun per year which has been imported into the United States. It also creates an exception to 922(a) (3) to allow the interstate transfer and transportation of sporting rifles and shotguns between lawful owners and members of the immediate family. This section also requires a person who is not a member of the armed forces and who imports a sporting rifle or sporting shotgun to be at least 21 years old.

"*Section 207.* This section allows the voluntary transfer of non-sporting purpose handguns to law enforcement agencies and establishes reasonable compensation to the voluntary transferor.

"*Section 208.* This section excludes from the record keeping requirements of 922(b) (5) and 923(g) any person who purchases only .22 caliber rimfire ammunition.

"*Section 209.* This section creates an exception to the application of the provisions of this chapter to the transportation, shipment, receipt, or importation of any lawfully acquired firearm or ammunition to be used solely for testing purposes by a professional journal or sporting magazine.

"*Section 210.* This section provides Federal penalties for any person committing murder or manslaughter, or attempting to commit murder or manslaughter on any State law enforcement officer, fireman or prison guard while that person is performing official duties.

"*Section 211.* Authorizes the appropriation of such funds as may be necessary.

"*Section 212.* This act is to take effect immediately upon enactment except that sections 203 and 205 concerning the ban on sale of non-sporting handguns becomes effective sixty days after enactment.

#### "TITLE III—MANDATORY PENALTIES FOR FIREARM CRIME AND TRAFFIC

"*Section 301.* This section contains a title cited as the 'Gun Running Control and Mandatory Penalties Act'.

"*Section 302.* This section provides for an additional penalty of 5 to 15 years imprisonment for any person convicted of commission of a felony while armed

with a firearm. It also requires the court to state in writing its reasons for not imposing such additional penalty if it should choose not to impose them.

"Any person convicted of this same offense twice, in addition to penalties for the underlying felony, receives a mandatory penalty of 10 to 30 years imprisonment which cannot run concurrently with any penalty assessed for the commission of the underlying felony.

"Section 303. This section establishes a defendant charged with the use of a firearm in the commission of a felony as a dangerous special offender under section 3575 of Title 18.

"Section 304. This section establishes mandatory penalties for any federally licensed importer, manufacturer, dealer or collector who sells or disposes of a firearm to a person who the licensee knows or has reasonable cause to believe is under indictment for a felony, or who has been convicted of a felony. Mandatory penalties are also established for a felon or a person under indictment for a felony who ships, transports or receives a firearm in interstate commerce. This subsection also provides mandatory penalties for a licensee who sells or delivers a firearm to a person who the licensee knows, or has reasonable cause to believe, does not reside in the State in which the licensee does business. The three exemptions to this violation currently contained in section 922(b)(3) are retained.

"Section 305. This section amends the record keeping requirements of licensees to require them to promptly report to the Secretary any theft of firearms and the circumstances surrounding such theft. Licensees are also required to report any multiple disposition of firearms to an unlicensed person.

"Section 306. This section expedites the trial dates of crimes involving use or possession of a firearm by granting such crimes priority on the court docket.

#### "TITLE IV—MANDATORY PENALTIES FOR NARCOTICS TRAFFICKERS

"Section 401. This section defines a public menace as one who is over 18 years of age, not an addict and has been convicted of illegally manufacturing, distributing or dispensing an amount equal to, or in excess of one-tenth of an ounce of pure heroin or morphine. One found to be a public menace shall be sentenced, in addition to the applicable penalties under the Controlled Substances Act, to a mandatory penalty of 10 to 30 years imprisonment. A second public menace conviction requires a mandatory sentence of life imprisonment. Moreover, terms of imprisonment imposed under the public menace provisions may not run concurrently with any term of imprisonment imposed under the Controlled Substances Act.

#### "TITLE V—ROBBERY OF PHARMACIES AND RELATED SECTIONS

"Section 501. This section contains a title cited as the 'Pharmacy Protection Act'.

Section 502. This section amends the Controlled Substances Act to establish Federal penalties for the robbery or attempted robbery of controlled substances from a pharmacy.

"Section 503. This section amends the table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 to reflect the addition of the Pharmacy Protection Act.

#### "TITLE VI—SENTENCING FOR CRIMES OF VIOLENCE

"Section 601. This section contains a title cited as the 'Violent Offender Act'.

"Section 602. This section amends the Youth Correction Act to deny special sentencing treatment to offenders who had previously been convicted of arson, rape, robbery, kidnapping, murder, assault with a dangerous weapon or assault with intent to commit any of the above.

"Section 603. This section amends section 4209 of Title 18, concerning offenders between the ages of 22 and 26, to reflect the changes set out in section 602."



IN THE SENATE OF THE UNITED STATES

Mr. BAYH introduced the following bill; which was read twice and referred to the Committee on the Judiciary

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,  
That this Act may be cited as the “Violent Crime and Repeat Offender Control Act of 1975”.

5 TITLE I—FINDINGS AND DECLARATION OF  
6 PURPOSE

## 7 FINDINGS

8 SEC. 101. The Congress hereby finds that—

(1) small, usually inexpensive, nonsporting handguns are the favorite of murderers, robbers, and other violent criminals;



1 prosecution of those involved in the sale of handguns  
2 to felons and of those involved in handgun theft and  
3 illicit trafficking;

4 (4) to assure that convicted nonaddict pushers of  
5 significant amounts of narcotics and criminals convicted  
6 of using firearms in the commission of illegal acts receive  
7 appropriate penalties;

8 (5) to provide additional protection for pharmacies  
9 and pharmacists against an ever-increasing level of  
10 violence directed at obtaining controlled drugs; and

11 (6) to eliminate favorable sentencing alternatives  
12 for those previously convicted of violent crimes.

13 TITLE II—HANDGUN CRIME

14 SEC. 201. This title may be cited as the "Handgun Crime  
15 Control Act".

16 SEC. 202. Section 921 (a) of title 18 of the United  
17 States Code is amended by inserting after paragraph (20)  
18 the following:

19 "(21) The term 'handgun' means a firearm designed to  
20 be fired by the use of a single hand. The term also includes a  
21 combination of parts in the possession or under the control of  
22 a person from which a handgun can be assembled. The term  
23 does not include antique firearms.

24 "(22) The term 'handgun model' means a handgun of  
25 a particular design, specification, and designation."

1 SEC. 203. Section 922 (b) of title 18 of the United  
2 States Code is amended by—

3 (a) striking out at the end of paragraph (4) there-  
4 of the word “and”;

5 (b) striking out at the end of paragraph (5) there-  
6 of the period and inserting in lieu thereof a semicolon;

7 (c) adding after paragraph (5) thereof the fol-  
8 lowing:

9 “(6) any handgun model unless such handgun  
10 model has been approved by the Secretary pursuant to  
11 section 922 (n) of this title.”; and

12 (d) deleting the final sentence, which begins with  
13 the words “Paragraph (4) of this”, and inserting in  
14 lieu thereof the following:

15 “Paragraphs (4) and (6) of this subsection shall  
16 not apply to a sale or delivery to any research organiza-  
17 tion designated by the Secretary. Paragraph (6) of  
18 this subsection shall not apply to the sale or delivery  
19 of any firearm to the United States or any department  
20 or agency thereof, or to any State, department, agency,  
21 or political subdivision thereof, or any duly commis-  
22 sioned law enforcement officer of the United States or  
23 any department or agency thereof or of any State, de-  
24 partment, agency, or political subdivisions thereof (in-

1       cluding but not limited to members of the Armed Forces  
2       and police officers) properly authorized to carry such  
3       firearms in his official capacity. Paragraph (6) of this  
4       subsection shall not apply to the sale or delivery by a  
5       licensed importer, licensed manufacturer, or licensed  
6       dealer to a licensed dealer of any firearm intended to be  
7       sold or delivered to any government or agency thereof  
8       or person entitled pursuant to this paragraph to have  
9       such firearms sold or delivered to him. Paragraph (6)  
10      of this subsection shall not apply to the sale or delivery  
11      to a licensed collector or licensed dealer of any fire-  
12      arm which is a curio or relic, as the Secretary shall by  
13      regulation define. Paragraph (6) of this subsection  
14      shall not apply to occasional, sporadic sales of single  
15      handguns by a licensed collector who is not a dealer,  
16      as defined by section 921 (a) of this title.”

17      SEC. 204. Section 922 of title 18 of the United States  
18      Code is amended by adding at the end thereof the following  
19      new subsections:

20      “(n) The Secretary shall not approve for sale or delivery  
21      by a licensed dealer, licensed importer, licensed manufacturer,  
22      or licensed collector any handgun model unless he has caused  
23      to be evaluated and tested representative samples of such  
24      handgun model and has found that:



## 6

1       “(1) in the case of a pistol, the handgun model:

2               “(A) has a positive manually operated safety  
3       device; and

4               “(B) has a combined length and height in  
5       excess of 10 inches with the height (right angle  
6       measurement to the barrel without the magazine  
7       or extension) being at least 4 inches and the length  
8       being at least 6 inches; and

9               “(C) attains a total of at least 75 points under  
10      the following criteria:

11              “(i) Overall length: one point for each  
12      one-fourth inch over 6 inches;

13              “(ii) Frame construction: (a) 15 points  
14      if investment cast steel or forged steel, (b) 20  
15      points if investment cast HTS alloy or forged  
16      HTS alloy;

17              “(iii) Pistol weight: one point for each  
18      ounce, with the pistol unloaded and the maga-  
19      zine in place;

20              “(iv) Caliber: (a) zero points if the pistol  
21      accepts only .22 caliber short or .25 caliber  
22      automatic ammunition, (b) three points if the  
23      pistol accepts either .22 caliber long rifle ammu-  
24      nition or any ammunition within the range

1 delimited by 7.65 millimeter and .380 caliber  
2 automatic, (c) 10 points if the pistol accepts  
3 9 millimeter parabellum ammunition or over,  
4 (d) in the case of ammunition not falling within  
5 one of the classes listed above, such number of  
6 points no greater than ten (following the classi-  
7 fication schedule above as nearly as is practica-  
8 ble) as the Secretary shall determine appropri-  
9 ate to the suitability for sporting purposes or  
10 for personal protection of handgun models de-  
11 signed for such ammunition;

12 “(v) Safety features: (a) five points if the  
13 pistol has a locked breech mechanism, (b) five  
14 points if the pistol has a loaded chamber indi-  
15 cator, (c) three points if the pistol has a grip  
16 safety, (d) five points if the pistol has a maga-  
17 zine safety, (e) 10 points if the pistol has a fir-  
18 ing pin block or lock; and

19 “(vi) Miscellaneous equipment: (a) two  
20 points if the pistol has an external hammer,  
21 (b) 10 points if the pistol has a double action  
22 firing mechanism, (c) five points if the pistol  
23 has a drift adjustable target sight, (d) 10  
24 points if the pistol has a click adjustable target

## 8

1 sight, (e) five points if the pistol has target  
2 grips, (f) two points if the pistol has a target  
3 trigger; and

4 “(2) in the case of a revolver, the handgun model: ”

5 “(A) has an overall frame length of four and  
6 one-half inches measured on a line parallel to the  
7 barrel; and

8 “(B) has a barrel length of at least three  
9 inches; and

10 “(C) has a safety device which, either (i)  
11 automatically in the case of a double action firing  
12 mechanism or (ii) by manual operation in the case  
13 of a single action firing mechanism, causes the ham-  
14 mer to retract to a point where the firing pin does  
15 not rest upon the primer of the cartridge. Once ac-  
16 tivated, such safety device must be capable of with-  
17 standing the impact of a weight, equal to the weight  
18 of the revolver, dropped a total of five times from a  
19 height of 36 inches above the rear of the hammer  
20 spur onto the rear of the hammer spur with the  
21 revolver resting in a position such that the line of  
22 the barrel is perpendicular to the plane of the hori-  
23 zon; and

24 “(D) attains a total of at least 45 points under  
25 the following criteria:

1                   “(i) Barrel length: one-half point for each  
2                   one-fourth inch that the barrel is longer than 4  
3                   inches;

4                   “(ii) Frame construction: (a) 15 points if  
5                   investment cast steel or forged steel, (b) 20  
6                   points if investment cast HTS alloy or forged  
7                   HTS alloy;

8                   “(iii) Revolver weight: one point for each  
9                   ounce with the revolver unloaded;

10                   “(iv) Caliber: (a) zero points if the re-  
11                   volver accepts only .22 caliber short or .25 cali-  
12                   ber ACP, (b) three points if the revolver ac-  
13                   cepts .22 caliber long rifle or ammunition in the  
14                   range between .30 caliber and .38 S&W, (c)  
15                   four points if the revolver accepts .38 caliber  
16                   special ammunition, (d) five points if the re-  
17                   volver accepts .357 magnum or over, (e) in  
18                   the case of ammunition not falling within one of  
19                   the classes listed above, such number of points  
20                   not greater than five (following the classification  
21                   schedule above as nearly as practicable) as the  
22                   Secretary shall determine appropriate to the  
23                   suitability for sporting purposes or for personal  
24                   protection of handgun models designed for such  
25                   ammunition; and

1                   “(v) Miscellaneous equipment: (a) five  
2                   points if the revolver has either drift or click  
3                   adjustable target sights, (b) five points if the  
4                   revolver has target grips, (c) five points if the  
5                   revolver has a target hammer and a target  
6                   trigger.

7           “(o) It shall be unlawful for any person to reduce the  
8   length of the barrel or the overall length of a handgun pre-  
9   viously approved by the Secretary for sale and delivery if  
10   as a result of such modification the handgun no longer meets  
11   the standards for approval set forth in subsection (n) of this  
12   section.

13           “(p) The Secretary shall give written notification of  
14   the results of evaluation and testing conducted pursuant to  
15   subsection (n) of this section to the licensee submitting sam-  
16   ples of a handgun model for such evaluation and testing. If  
17   any handgun model fails to meet the standards for approval,  
18   the Secretary’s notification shall state specifically the reasons  
19   for such finding. Any such notification of approval or failure  
20   shall be published in the Federal Register. At least once each  
21   year the Secretary shall compile a list of all handgun models  
22   which are then approved for sale or delivery under subsection  
23   (n) of this section, which list shall be published in the Fed-  
24   eral Register and furnished annually to each licensee under  
25   this chapter.



1       “(q) Any licensee submitting to the Secretary for test-  
2 ing a handgun model which is subsequently found not in  
3 compliance with relevant standards shall have ten days from  
4 receipt of notification of noncompliance within which to sub-  
5 mit in writing specific objections to such finding and a re-  
6 quest for retesting such model, together with justification  
7 therefor. Upon receipt of such a request the Secretary shall  
8 promptly arrange for retesting and thereafter notify the ag-  
9 grievied party of the results, if he determines sufficient justi-  
10 fication for retesting exists. Should he determine that  
11 retesting is not warranted, the Secretary shall promptly  
12 notify the aggrieved party as to such determination. In the  
13 event that upon retesting the Secretary’s finding remains  
14 adverse, or that the Secretary finds retesting is not war-  
15 ranted, the aggrieved party may within sixty days after the  
16 date of the Secretary’s notice of such finding file a petition  
17 in the United States district court in the district in which the  
18 aggrieved party has his principal place of business in order  
19 to obtain judicial review of such finding. Such review will  
20 be in accordance with the provisions of section 706 of title  
21 5, United States Code.”

22       SEC. 205. Section 925 (d) (3) of title 18 of the United  
23 States Code is amended to read as follows:

24       “(3) is of a type that does not fall within the defini-  
25 tion of a firearm as defined in section 5845 (a) of the

Internal Revenue Code of 1954; is not a surplus military firearm; and if a handgun, has been approved by the Secretary pursuant to section 922 (n) of this title; or”.

SEC. 206 (a) Section 921 (a) of title 18, United States Code, as amended by section 202 of this title, is further amended by adding the following:

“(23) The term ‘immediate family’ means direct lineal descendants (including adopted children) and ascendants of the transferor.

“(24) The term ‘sporting firearm’ means a firearm which is generally recognized as particularly suitable for or readily adaptable to sporting purposes.”

(b) Section 922 (a) (3) of title 18, United States Code, is amended by redesignating clause “(C)” as clause “(E)”, and by inserting after clause (B) the following new clauses: “(C) shall not apply to the importation into the United States of a sporting rifle or sporting shotgun in conformity with the provisions of section 925 (d) (3) : *Provided*, That not more than one sporting rifle and one sporting shotgun shall be imported by a person during any calendar year; (D) shall not apply to the transportation or receipt of a sporting rifle or sporting shotgun transferred by its lawful owner to a member of his immediate family;”.

(c) Section 922 (a) (5) of such title is amended by

## 13

1 redesignating clause “(B)” as clause “(C)”, and by in-  
2 serting after clause (A) the following new clause: “(B)  
3 the transfer, transportation, or delivery of a sporting rifle or  
4 sporting shotgun by its lawful owner to a member of his  
5 immediate family.”.

6 (d) Section 925(d)(3) of title 18, United States  
7 Code, as amended by section 205 of this title, is further  
8 amended by inserting immediately after “the Internal  
9 Revenue Code of 1954” a comma and the following: “and  
10 meets the definition of a sporting firearm as defined in this  
11 chapter, excluding surplus military firearms, except that in  
12 any case in which a person who is not a member of the  
13 United States Armed Forces and is not a licensed importer,  
14 manufacturer, dealer, or collector seeks to import a sporting  
15 rifle or sporting shotgun by mail order, such person must be  
16 at least twenty-one years of age;”.

17 (e) (1) Section 926 of title 18, United States Code, is  
18 amended by adding at the end thereof the following new  
19 sentence: “The Secretary shall compile and maintain an  
20 importation list containing descriptions of rifles and shot-  
21 guns which he determines to be generally recognized as par-  
22 ticularly suitable for or readily adaptable to sporting pur-  
23 poses.”.

24 (2) The caption of such section is amended to read  
25 as follows:

1 **“§ 926. Rules and regulations: Importation list”.**

2 (3) Item 926 of the analysis of chapter 44 of such  
3 title is amended to read as follows:

“926. Rules and regulations: Importation list.”.

4 SEC. 207. (a) Sections 926, 927, and 928 of title 18 of  
5 the United States Code, and all references thereto, are redes-  
6 ignated as sections 927, 928, and 929, respectively.

7 (b) Title 18 of the United States Code is amended by  
8 inserting after section 925 the following new section:

9 **“§ 926. Compensation for reasonable value of handguns**  
10 **voluntarily transferred to law enforcement**  
11 **agencies**

12 “(a) A person may at any time transfer to any Federal,  
13 State, or local law enforcement agency designated by the Sec-  
14 retary any handguns owned or possessed by such person.

15 “(b) In the case of transfer pursuant to subsection (a)  
16 of a handgun model which the Secretary has evaluated and  
17 tested pursuant to section 922 (n) of this title and not ap-  
18 proved for sale or delivery by a licensee under this chapter,  
19 the person transferring such handgun shall, upon proof that  
20 such handgun was lawfully acquired and lawfully owned by  
21 such person prior to enactment of the Handgun Crime  
22 Control Act, be entitled to receive from the United States a  
23 payment equal to the reasonable value of such handgun, such

1 value to be determined as of the day before enactment of  
2 the Handgun Crime Control Act.”

3 SEC. 208. Section 4182 of title 26 of the United States  
4 Code is amended by adding the following subsection (d) :  
5 “(d) RECORDS.—Notwithstanding the provisions of  
6 section 922 (b) (5) and 923 (g) of title 18, United States  
7 Code, no person holding a Federal license under chapter  
8 44 of title 18, United States Code, shall be required to  
9 record the name, address, or other information about the  
10 purchaser of .22-caliber rimfire ammunition.”

11 SEC. 209. Section 925 (a) of title 18, United States  
12 Code, is amended—

13 (1) by redesignating paragraph (5) as paragraph  
14 (6) ; and

15 (2) by inserting immediately after paragraph (4)  
16 the following new paragraph :

17 “(5) The provisions of this chapter shall not apply with  
18 respect to the transportation, shipment, receipt, or importa-  
19 tion of any lawfully acquired firearm or ammunition intended  
20 to be used solely for testing of any such firearm or ammuni-  
21 tion for a professional journal or sporting magazine, pursuant  
22 to regulations issued by the Secretary of the Treasury. It  
23 shall be unlawful to use any such firearm for any purpose  
24 other than testing and evaluation.”



1        SEC. 210. (a) Chapter 51 of title 18, United States  
2 Code, is amended by adding at the end thereof the following  
3 new section:

4    **“§ 1116. Murder, manslaughter, or attempt to commit mur-**  
5                    **der or manslaughter of State law enforcement**  
6                    **officers, firemen, or prison guards**

7        “(a) Whoever commits murder or manslaughter, or  
8 attempts to commit murder or manslaughter, or aids or abets  
9 another in the commission of such murder or manslaughter,  
10 or attempt to commit such murder or manslaughter, of any  
11 State law enforcement officer, fireman, or prison guard while  
12 such officer, fireman, or guard is performing official duties,  
13 or because of the official position of such officer, fireman, or  
14 guard, shall be punished as provided under section 1111,  
15 section 1112, or section 1113 of this title.

16        “(b) As used in this section, the term—

17                “(1) ‘law enforcement officer’ means any officer or  
18 employee of any State who is charged with the enforce-  
19 ment of any criminal laws of such State;

20                “(2) ‘fireman’ means any person serving as a mem-  
21 ber of a fire protective service organized and admin-  
22 istered by a State or a volunteer fire protective service  
23 organized and administered under the laws of a State;

24                “(3) ‘prison guard’ means any officer or employee  
25 of any State who is charged with the custody or control

## 17

1       in a penal or correctional institution of persons convicted  
2       of criminal violations; and

3               “(4) ‘State’ means any State of the United States,  
4       the Commonwealth of Puerto Rico, any political sub-  
5       division of any such State or Commonwealth, the Dis-  
6       trict of Columbia, and any territory or possession of the  
7       United States.”.

8       (b) The chapter analysis of such chapter is amended by  
9       adding immediately after item 1115 the following new item:

      “1116. Murder, manslaughter, or attempt to commit murder or man-  
          slaughter of State law enforcement officers, firemen, or prison  
          guards.”.

10       SEC. 211. There are hereby authorized to be appro-  
11       priated such sums as may be necessary to effect the purposes  
12       of this Act.

13       SEC. 212. The provisions of this Act shall take effect  
14       immediately upon enactment, except that sections 203 and  
15       205 of this title shall take effect sixty days after the date of  
16       enactment.

17               TITLE III—MANDATORY PENALTIES FOR  
18               FIREARM CRIME AND TRAFFIC

19       SEC. 301. This title may be cited as the “Gun Running  
20       Control and Mandatory Penalties Act”.

21               PENALTIES FOR FIREARM CRIME

22       SEC. 302. Subsection (c) of section 924 of title 18 of the  
23       United States Code is amended to read as follows;

1       “(c) (1) Whoever—

2               “(A) uses a firearm to commit any felony for  
3       which he may be prosecuted in a court of the United  
4       States, or

5               “(B) carries a firearm unlawfully during the com-  
6       mission of any felony which threatens life or property  
7       for which he may be prosecuted in a court of the United  
8       States,

9       may, in addition to the punishment provided for the com-  
10      mission of such felony, be sentenced to a term of imprison-  
11      ment for not less than five years or more than fifteen years.  
12      In any case in which such additional sentence is not im-  
13      posed, the court shall state in writing its reasons for so de-  
14      ciding. The imposition or execution of such additional sen-  
15      tence if imposed shall not be suspended nor probation  
16      granted.

17       “(2) Whoever, after having been convicted of any  
18      such felony while so using or unlawfully carrying a firearm  
19      as provided in paragraph (1) of this subsection and is again  
20      convicted of a second or subsequent offense involving the  
21      commission of a felony for which he may be prosecuted  
22      in a court of the United States while so using or unlawfully  
23      carrying a firearm as provided in paragraph (1) shall, in  
24      addition to the punishment provided for the commission of  
25      such felony, be sentenced to a term of imprisonment for

1 not less than ten or more than thirty years. The im-  
2 position or execution of such additional sentence shall not be  
3 suspended and probation shall not be granted.

4 “(3) In no case shall any additional term of imprison-  
5 ment imposed pursuant to this subsection run concurrently  
6 with any term of imprisonment imposed for the commission  
7 of any such felony.

8 “(4) A conviction shown on direct or collateral re-  
9 view to be invalid, or for which the defendant has been par-  
10 doned on the ground of innocence shall be disregarded for  
11 purposes of paragraph (2) of this subsection.”

12 SEC. 303. (a) Subsection (e) of section 3575 of title  
13 18, United States Code, is amended (1) by striking out the  
14 period at the end of paragraph (3) thereof and inserting in  
15 lieu thereof a semicolon and the word “or”, and (2) by  
16 adding immediately after paragraph (3) thereof the follow-  
17 ing new paragraph:

18 “(4) the defendant used a firearm (as defined in  
19 section 921(a) (3) of this title) to commit such felony,  
20 or unlawfully carried a firearm (as defined in section  
21 921(a) (3) of this title) during the commission of such  
22 felony.”

23 (b) Section 3575 of title 18, United States Code, is  
24 amended by adding at the end thereof the following new  
25 subsection:

1       “(h) Nothing in this section shall be construed as  
2 amending, altering, modifying, or otherwise affecting the pro-  
3 visions of subsection (c) of section 924 of this title, or as af-  
4 fecting the applicability of such provisions to any defendant  
5 sentenced pursuant to this section.”

6       SEC. 304. Section 924 (a) of title 18 of the United  
7 States Code is amended to read as follows:

8       “(a) Whoever violates any provision of this chapter or  
9 knowingly makes any false statement or representation with  
10 respect to the information required by the provisions of this  
11 chapter to be kept in the records of a person licensed under  
12 this chapter, or in applying for any license or exemption or  
13 relief from disability under the provisions of this chapter, shall  
14 be fined not more than \$5,000, or imprisoned not more than  
15 five years, or both, and shall become eligible for parole as the  
16 Board of Parole shall determine: *Provided*, That in the case  
17 of any (a) person who violates section 922 (g) (1) or  
18 section 922 (h) (1) by shipping, transporting, or receiving  
19 any firearms or ammunition in interstate or foreign commerce  
20 while that person is under indictment for, or has been con-  
21 victed in any court of a crime punishable by imprisonment  
22 for a term exceeding one year; (b) licensed importer,  
23 licensed manufacturer, licensed dealer, or licensed collector  
24 who violates section 922 (d) (1) by selling or otherwise  
25 disposing of any firearm or ammunition to any person know-



1 ing or having reasonable cause to believe that such person is  
2 under indictment for or has been convicted in any court of a  
3 crime punishable by imprisonment for a term exceeding one  
4 year; and (c) licensed importer, licensed dealer, or licensed  
5 collector who violates section 922 (b) (3) by selling or  
6 delivering a firearm to any person not specifically exempted  
7 under subsection (A), (B), or (C) of that section who the  
8 licensee knows or has reasonable cause to believe does not  
9 reside in (or if the person is a corporation or other business  
10 entity, does not maintain a place of business in) the State in  
11 which the licensee's place of business is located; the court  
12 shall not suspend the sentence of such person or grant such  
13 person a probationary sentence."

14 SEC. 305. (a) Section 923 (g) of title 18 of the United  
15 States Code is amended to read as follows:

16 "(g) Each licensed importer, licensed manufacturer,  
17 licensed dealer, and licensed collector shall maintain such  
18 records of importation, production, shipment, receipt, sale,  
19 or other disposition, of firearms and ammunition at such  
20 place, for such period, and in such form as the Secretary may  
21 by regulations prescribe. Such importers, manufacturers,  
22 dealers, and collectors shall make such records available for  
23 inspection at all reasonable times, and shall submit to the  
24 Secretary such reports and information with respect to such  
25 records and the contents thereof as he shall by regulations

1 prescribe: *Provided*, That each licensed importer, licensed  
2 manufacturer, licensed dealer, and licensed collector shall  
3 promptly report to the Secretary any loss of firearms or  
4 ammunition when such licensee shall have reasonable cause  
5 to believe that such loss was a result of theft. Such report  
6 shall include the amount of firearms or ammunition lost and  
7 the circumstances under which such loss took place: *Pro-*  
8 *vided further*, That each licensee shall prepare a report of  
9 multiple sales or other disposition whenever the licensee sells  
10 or otherwise disposes of, at one time or during any five  
11 consecutive business days, two or more handguns to an un-  
12 licensed person. Such report shall be forwarded to the Secre-  
13 tary at the close of business on the day the multiple sale or  
14 other disposition occurs. The Secretary may enter during busi-  
15 ness hours the premises (including places of storage) of any  
16 firearms or ammunition importer, manufacturer, dealer, or  
17 collector for the purpose of inspecting or examining (1) any  
18 records or documents required to be kept by such importer,  
19 manufacturer, dealer, or collector under the provisions of this  
20 chapter or regulations issued under this chapter, and (2) any  
21 firearms or ammunition kept or stored by such importer,  
22 manufacturer, dealer, or collector at such premises. Upon the  
23 request of any State or any political subdivision thereof, the  
24 Secretary may make available to such State, or any political  
25 subdivision thereof, any information which he may obtain by

1 reason of the provisions of this chapter with respect to the  
2 identification of persons within such State or political sub-  
3 division thereof, who have purchased or received firearms  
4 or ammunition, together with a description of such firearms  
5 or ammunition.”

6 (b) For purposes of this section the term “handgun” is  
7 defined in section 202 of title II in this Act.

8 SEC. 306. Section 924 of title 18 of the United States  
9 Code is amended by adding at the end thereof the following  
10 new subsection:

11 “(c) A trial of any crime involving use or possession  
12 of a firearm shall have priority on the calendar of any court  
13 of the United States. Upon receipt of the copy of such com-  
14 plaint, it shall be the duty of the presiding judge to assign  
15 the case for hearing at the earliest practicable date, and to  
16 cause the case to be in every way expedited.”

17 TITLE IV—MANDATORY PENALTIES FOR  
18 NARCOTICS TRAFFICKERS

19 SEC. 401. The Controlled Substances Act, approved  
20 October 27, 1970 (84 Stat. 1242), is amended by adding  
21 immediately after section 405 thereof the following new  
22 section:

23 “PUBLIC MENACE

24 “SEC. 405A. (a) Notwithstanding any other provisions  
25 of this Act or of any other law, any person who violates

1 section 401 (a) (1) shall, if such person is a public menace,  
2 be sentenced, in addition to the punishment provided for such  
3 violation, to a term of imprisonment for not less than ten  
4 years or more than thirty years; except that if such person  
5 has previously been convicted of such a violation and sen-  
6 tenced as a public menace, such person shall be sentenced, in  
7 addition, to life imprisonment. The imposition or execution of  
8 any such additional sentence shall not be suspended, proba-  
9 tion shall not be granted, and section 4202 and chapter 309  
10 of title 18, United States Code, shall not be applicable; ex-  
11 cept that any person so sentenced to life imprisonment may  
12 be released on parole after serving not less than thirty years  
13 of his life sentence (but in no event shall any period of im-  
14 prisonment served by him in connection with his punishment  
15 for such violation be included within or considered as a part  
16 of the thirty-year period which he is required to serve prior to  
17 his eligibility for consideration for parole). In no case shall  
18 any such additional term of imprisonment (including life  
19 imprisonment) imposed pursuant to this section run con-  
20 currently with any term of imprisonment imposed for such  
21 violation.

22 “(b) For purposes of this section, the term ‘public  
23 menace’ means any person, convicted on or after the effective  
24 date of this section of a violation of section 401 (a) (1) of  
25 this Act by illegally manufacturing, distributing, or dispens-

1 ing, in an amount equal to or in excess of one-tenth of  
2 an ounce of, or the equivalent of one-tenth of an ounce of,  
3 pure heroin or morphine and who, at the time he com-  
4 mitted such violation, was not an addict.

5 “(c) This section shall not be applicable to any person  
6 under eighteen years of age at the time the offense was com-  
7 mitted: *Provided, however,* That the Attorney General may  
8 expressly direct, that any person over sixteen years of age  
9 and under eighteen years of age who is for the second or  
10 subsequent time convicted as an adult for violating this sec-  
11 tion by illegally manufacturing, distributing, or dispensing,  
12 in an amount equal to or in excess of one-tenth of an ounce  
13 of, or the equivalent of one-tenth of an ounce of, pure  
14 heroin or morphine and who, at the time he committed  
15 such violation, was not an addict, be treated as if he were  
16 a first offender under the provisions of this section, and  
17 sentenced accordingly.

18 “(d) A conviction shown on direct or collateral review  
19 to be invalid, or for which the defendant has been pardoned  
20 on the ground of innocence, shall be disregarded for purposes  
21 of this section.”

22 **TITLE V—ROBBERY OF PHARMACIES AND**  
23 **RELATED SECTIONS**

24 **SEC. 501.** This title may be cited as the “Pharmacy  
25 Protection Act”.



1        SEC. 502. (a) The Controlled Substances Act is  
2 amended by adding immediately after section 405 (21  
3 U.S.C. 845) the following new section:

4        "ROBBERY OF A CONTROLLED SUBSTANCE FROM A  
5                REGISTERED PHARMACY AND RELATED CRIMES

6        "SEC. 405A. (a) Whoever, by force and violence, or  
7 by intimidation, takes or attempts to take, from the person or  
8 presence of another, any material, compound, mixture, or  
9 preparation containing any quantity of a controlled sub-  
10 stance set forth in a schedule of controlled substances under  
11 the Controlled Substances Act and belonging to, or in the  
12 care, custody, control, management, or possession of any  
13 pharmacist, shall be fined not more than \$5,000 or im-  
14 prisoned not more than ten years, or both.

15        "(b) As used in this section, the term—

16                "(1) 'pharmacists' means any person registered in  
17 accordance with the Controlled Substances Act for the  
18 purpose of engaging in commercial activities involving  
19 the dispensing of any controlled substance to an ulti-  
20 mate user pursuant to the lawful order of a practitioner;

21                "(2) 'dispensing' shall have the same meaning as  
22 that provided under section 102(10) of the Controlled  
23 Substances Act;

24                "(3) 'practitioner' shall have the same meaning as



1           “kidnaping;

2           “murder;

3           “assault with a dangerous weapon; or

4           “assault with intent to commit rape, robbery, kid-  
5           naping, or murder,

6           then the court shall not sentence the youth offender under  
7           subsection (B) or (C) but may sentence the youth  
8           offender under any other applicable penalty provision.”

9           SEC. 603. Section 4209 of title 18 of the United States  
10          Code is amended by adding at the end thereof the following:

11          “Except that if, prior to the offense for which the youth  
12          offender is presently being sentenced, the youth offender had  
13          been convicted of any of the following offenses:

14               “arson;

15               “rape;

16               “robbery;

17               “kidnaping;

18               “murder;

19               “assault with a dangerous weapon; or

20               “assault with intent to commit rape, robbery, kid-  
21               naping, or murder,

22               then the court shall not sentence the youth offender under the  
23               Federal Youth Corrections Act but may sentence the youth  
24               offender under any other applicable penalty provision.”

[Extract from the Congressional Record, July 21, 1975]

By Mr. JAVITS (for himself and Mr. PERCY) :

S. 2153. A bill to amend the Intergovernmental Cooperation Act to prevent lawless and irresponsible use of handguns in selected areas with high crime rates, and for other purposes. Referred to the Committee on the Judiciary.

INTERGOVERNMENTAL LAW ENFORCEMENT COOPERATION AND REORGANIZATION ACT OF 1975 AND INTERGOVERNMENTAL HANDGUN CONTROL ACT

Mr. JAVITS. Mr. President, during my more than 25 years in Congress, I have been deeply concerned about the senseless stimulus to crime and violence directly attributable to our failure to act on the issue of handgun control.

That failure to act has been due in large part to an extraordinarily intense lobbying effort by the National Rifle Association, which in turn has created in Congress a distorted and totally inaccurate impression of American public opinion on this question. The Gallup poll published across the Nation earlier this month reported that 67 percent favor registration of firearms, and even 55 percent of gunowners favor such controls.

Since the 1968 Gun Control Act was passed—a law riddled with loopholes—we have not had a strong, meaningful gun control bill reported to the Senate floor—and I do not regard the passage of the 1972 Saturday night special bill as strong or meaningful.

It was with this in mind that I and other Members sought to develop a new comprehensive approach to gun control which would require also some departmental reorganization in order to give the Senate Government Operations Committee an opportunity to work in parallel with the Senate Judiciary Committee to develop a new legislative approach to gun control.

Accordingly, I am today breaking the proposal into two separate bills, one of which contains the reorganization and some intergovernmental aspects of the proposal, and the second contains amendments to the Intergovernmental Cooperation Act to strengthen and in some instances to initiate new controls on the sale and interstate shipment, and transportation of handguns.

Before getting into the details of the bills which I introduce on behalf of myself and Senator Percy, the ranking minority member of the Government Operation Committee, I shall discuss in this statement as one comprehensive proposal, I should like to express my views on the problem of the "Saturday night special."

The much publicized "Saturday night special" bill which passed the Senate in 1972 would not reduce significantly the high level of handgun violence. That bill merely prohibits the future sale of certain handguns of extremely short barrel length by licensed dealers, manufacturers, and importers. It would not prevent anyone who presently owns a "Saturday night special" from owning or even selling it, and by its definition would exclude a large number of handguns not suitable for sporting purposes.

And even if it did effectively prohibit "Saturday night specials" that alone would not be enough because the Smith & Wesson would begin to replace the cheap import, and victims would encounter longer barrelled guns instead of a 2- or 4-inch barrel.

The 1972 "Saturday night special" approach would have given us only the illusion of gun control, not its reality. While I have supported and cosponsored legislation to ban the manufacture of "Saturday night specials" with a barrel of 10 inches or less, that is only one step we must take to get this problem under control.

Congress and the media have been deeply concerned with the "Saturday night special," but statistics indicate that we must have a broader range of concerns. The office of the mayor of the city of New York has reported in a study entitled, "The Case of Federal Firearms Control," which I have already placed in the Record :

"In a 15-day period beginning Saturday June 2, 1972, seven police officers were assaulted with handguns. . . . Three of the officers were killed, all with handguns. None of the handguns has yet been identified as a 'Saturday night special.'"

The same study, in its chapter on "Suggested Federal Firearms Control Legislation," emphasized :

" . . . the experience in New York and elsewhere indicates that while these cheap handguns (Saturday night specials) are an important aspect of the hand-



gun abuse problem faced by law-abiding citizens and police officers, eliminating them will not come close to fully eliminating the problem. Recent surveys conducted by the New York City Police Department of guns seized from arrested perpetrators determined that less than 30 percent of the firearms seized were 'Saturday Night Specials'. Similarly, a survey of all handguns seized in the first six months of 1973 in the City's highest crime precinct found that even in this poverty neighborhood, approximately half of the classifiable handguns used by alleged perpetrators were high quality, expensive weapons."

The police departments of nine large cities around the country have reported that .22 or .25 caliber pistols—which account for most "Saturday night specials"—were responsible for only 43 percent of the handgun murders in those cities. Costlier and better crafted handguns, which would not be affected by the 1972 "Saturday night special" bill produced a majority of the homicides.

Measures geared solely to the "Saturday night special," in short, will not save a majority of the lives snuffed out by handguns. Moreover, in some ways Saturday Night Special legislation might be counter-productive. Robert Sherrill, in his book on the gun problem in the United States, was extremely suspicious of these proposals:

"... as a matter of fact, there is no proof that the Special is more a threat to society than a gun of superior quality . . . so why pick on the Special? Apparently those who do the most aggressive picking . . . are motivated by the fact that the cheapest Saturday night special increasingly became, after World War II, an irritating competition to the major gun manufacturers. . . . They (the makers of the specials) were taking trade away from the elite gun manufacturers, who, naturally, went to Congress to have the hole in their pocket sewed up."

The problem broadly stated is that existing controls on the manufacture, sale, possession, and use of handguns are inadequate, misunderstood, and ineffective. Strong enforcement of the 1968 act itself is extremely difficult because of the inherent weaknesses in the law. I believe that this Nation's experience shows that gun control laws can work and that stringent control laws reduce homicides. We must therefore begin by strengthening the 1968 act in light of its demonstrated failure to control the distribution of handguns.

I am keenly aware of the strong feelings held by many in this body that some of the options proposed for the Federal control of handguns over the years may be simply unacceptable.

Licensing of owners, registration of handguns, outright national banning of all handguns, prohibiting sales, transfers or possession of handguns, and prohibitive tax provisions are among the alternatives which have long been debated here.

While I have supported—and continue to believe—that a national system of Federal licensing and registration of handguns is the most reasonable way to get at this problem, I have set this approach aside in an effort to find a new proposal designed to get all who have a positive interest in some remedial action to look at it with a fresh perspective.

It is with this purpose in mind that Senator Percy and I have cooperated to develop the Intergovernmental Law Enforcement Cooperation and Reorganization Act of 1975, which I have divided into two bills and now send to the desk for appropriate reference.

Following consultation with State and local law enforcement and other governmental officials, it has been determined that current law imposes disabilities of a most severe nature upon intergovernmental efforts to control illicit handgun traffic by Federal, State, and local agencies. The U.S. Conference of Mayors, bar associations, law enforcement officers, organized labor, and many other groups at the local level believe that an intergovernmental relations problem of substantial proportions exists as a result. Getting more effective controls is a complex task which will involve initiatives at all levels preceded by a much more thorough understanding of the problem.

On the Federal level alone there must be a greatly strengthened and more consolidated effort in handgun trafficking enforcement, and more Federal-State-city cooperative enforcement activities to reduce the dimensions of the problem. Examining and proposing solutions to large-scale intergovernmental problems has always been a main concern of the Government Operations Committee.

Representatives of several cities and States have said that while their jurisdictions have independently enacted handgun control laws—with some success



in curbing gun deaths—they are nearly impossible to enforce because of the lack of intergovernmental cooperation and regional uniformity.

Only eight States require licenses for buying handguns. They are Hawaii, Missouri, New Jersey, New York, and North Carolina, and most of these do not require licenses to own handguns. In only 29 States must a permit be obtained to carry a handgun.

Other laws prohibit gun sales to those “under the heat of passion”—Texas—or outlaw the carrying of guns for those who have the “intent” of assaulting someone—Minnesota and Vermont. Some States enforce a “cooling-off” period between the buying and delivery of the gun.

New York City has the strongest gun law in the land. An applicant for a handgun must show a legitimate need for it, his background is thoroughly investigated and he must be photographed and fingerprinted. There is a waiting period of several weeks between the request for the issuance and the license.

Philadelphia enacted a stringent law in 1965 which requires a permit for the purchase and transfer of all firearms and all applicants must have their fingerprints and photographs taken. San Francisco and Miami Beach require the registration of firearms of all kinds. Toledo enacted a law in 1968 which requires everyone who wants to buy a handgun to have a special ID that is not given out to certain undesirables. Statistics confirm that State and local laws have somewhat controlled homicide and accident rates. New York City has the second lowest murder rate of America's 10 largest cities.

But, unquestionably the worst problem confronting States and municipal laws is the easy access to out-of-State or area guns. By far, the majority of out-of-State guns coming into a strict State are illegally bought or stolen, and often illegally owned. Five hundred thousand guns are stolen every year, many going to organized criminals, and yet there are no national theft prevention and security standards imposed upon manufacturers, dealers, importers, and shippers of handguns.

Second, law enforcement agencies at the State and local level have stated that they have no intergovernmental system for developing regional and national statistics on handguns which have been used in the commission of crimes, and that tracing such weapons is now extremely difficult, if not impossible.

Third, in the 42 States where no license is required to purchase a handgun, the only restriction on buying a handgun is a provision in the Federal Gun Control Act of 1968 which requires that the purchaser fill out a form giving his name and declaring that he is not a minor, and has no history of alcoholism, mental disorder, or felony conviction. But this requirement is almost worthless since it mandates no verification—such as a police check—to substantiate the purchaser's identity and his assertions.

In addition, anyone under age or with a criminal record can easily buy or accept a gun from a nondealer. The Federal law does not prevent private individuals from transferring their own guns at will within their own States, and does not specify what credentials the receiver must have.

Specifically, our proposals seeks to improve Federal, State, and local law enforcement capabilities in this field by:

First, transferring all functions relating to the enforcement of the 1968 act and now vested in the Secretary of the Treasury to the Attorney General. They would be exercised by a new Firearm Safety and Abuse Control Administration which would have expanded handgun information gathering authority;

Second, requiring verification of personal identification information required to be submitted by a prospective purchaser prior to delivery or shipment of any firearm;

Third, covering sale and resale of firearms between private persons who are not dealers, manufacturers, and collectors as regards verification of eligibility;

Fourth, requiring the development and enforcement by the Attorney General of national theft prevention and security standards which would apply to all licensed dealers, manufacturers, importers, collectors and common carriers;

Fifth, banning the sale or delivery to any one person of multiple handguns in excess of one in any 1 calendar year except to police and other governmental units; and developing adequate licensing standards to assure that Federal licenses to manufacture, import, or deal in firearms will be issued only to responsible persons legitimately engaged in such business.

Sixth, authorizing joint Federal-local task forces for handgun trafficking control;

Seventh, banning with proper exceptions the possession, sale, use, or importation of handguns in public or private in any standard metropolitan statistical area—SMSA—where the violent crime rate is 20 percent above the national average, or where it is 10 percent above the national rate and 5 percent above the prior year's local rate;

Eighth, banning the domestic manufacture, sale, transportation, or possession of Saturday night specials—barrel length up to 10 inches; and

Ninth, authorizing the Advisory Commission on Intergovernmental Relations to undertake a study of the effectiveness of the 1968 Gun Control Act, particularly with respect to strengthening the Federal licensing system.

Mr. President, one of the long term, major obstacles to the enactment of Federal gun control legislation has been the lack of an approach which would be tailored to areas or regions of the country where the abuse of handguns as reflected in violent crime rates is greatest. Traditional political opposition to such a selective gun control approach should be substantially reduced.

Recently, Attorney Gen. Edward H. Levi suggested such a system of triggered Federal controls. His proposal, which is not yet reduced to legislation would ban the possession of handguns in public—not private—in any standard metropolitan statistical area where the violent crime rate reaches a certain level above the national average.

The principal criticism of the Attorney General's suggestion, and a general disadvantage of a regional approach is one which has plagued attempts at localized gun control. It does not limit handguns in the uncontrolled surrounding areas from which the weapons may continue to flow. The criminal use of handguns is a national problem which exists to some degree or another in every city and suburban area in the country. The programs that propose to deal with the problem on the local level or in isolated situations must if they are to have any real effect, confront and overcome the basic fact of handgun mobility.

First, our proposal—which amends the Intergovernmental Cooperation Act—adopts the basic Levi idea of banning possession of handguns in urban areas where the violent crime rate is 20 percent above the national, 10 percent above the previous year's local average. We then address the second side of the problem—illegal gunrunning into urban areas like New York City in violation of the 1968 act—by proposing several new laws as I have already indicated which are designed to develop the wherewithal for intergovernmental law enforcement authorities to do their job.

The standard metropolitan statistical area is established in our bill as the geographic areas for potential handgun control. Its ready availability and its use by the FBI in compiling violent crime statistics make it a useful classification. Of more importance is the fact that these areas all include a core city of 50,000 or more and therefore fall into the urban category. Moreover, they have been precisely defined in terms of their political boundaries, and the statistical bases developed for these areas provided a way to estimate the impact of the program proposed.

Under our proposal, once triggered, the controls would remain in force for a minimum period of 5 years, and would not be removed until the Attorney General published a finding based upon positive evidence that the high rates of crime have come down to the national or local levels, or that the pattern of illegal gun violations—for example, interstate gunrunning—had ceased. For 60 days following the triggering on of controls persons delivering handguns to depository agencies would be paid the market value of their weapons, although this could involve a considerable expense. Handguns could be surrendered voluntarily at any time thereafter without penalty.

I know that this is a complex, and in some respects perhaps an impractical approach to this problem, but I believe that it must be given the most careful consideration in Congress.

Mr. President, another major purpose of the bill is to ban the domestic output of cheap hand-held firearms known as Saturday night specials. As I have stated, the handgun's role in crime is disproportionate to its number in comparison with long guns, in the commission of homicide, aggravated assault, and armed robbery.

In an effort to further pinpoint ways in which we might improve Federal, State, and local capacity to deal with illicit handgun traffic, our proposal would authorize the Advisory Commission on Intergovernmental Relations to undertake a comprehensive study of the 1968 act, focusing on the adequacy of the Federal licensing system.

Mr. President, there are no simple solutions to the crime problem, no panaceas. The causes of crime and violence in our society are rooted in complex and stubborn forces which will not easily yield, except to comprehensive reform of our criminal justice system, but there are partial solutions—even though they might not be complete. There are actions which we can take to provide better protection for our shop keepers, our cab drivers, our police officers, and all of our people.

Protecting the lives, the property, and the rights of its citizens is the first purpose of government. The level and quality of public safety afforded by our governments is not adequate to our needs. It must be made so.

One action we must now undertake is to control the deadly interstate traffic in firearms.

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QUESTIONS RAISED BY S. 2153<sup>1</sup> BY THE SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY

1. APPLICABILITY

S. 2153 would prohibit the sale of any handgun which the Attorney General determined to be unsuitable for "law enforcement, military uses, hunting, sport shooting and other lawful purposes based upon standards established by the Attorney General." The Subcommittee will be exploring what handguns, if any, will be covered by a definition, that is clearly weaker than the specific sporting purpose criteria found in S. 2507, which passed the Senate in 1972 and was reintroduced as Title II of S. 1880 in June of this year.

2. COST EFFECTIVENESS

S. 2153 would institute a pure registration system for all handguns (persons in possession of handguns to notify Attorney General of make and model) in the United States and the Subcommittee will be inquiring into the efficacy of this proposal especially in light of the conclusions of a study by the Bureau of Alcohol, Tobacco and Firearms which found that this type of simple registration system involves substantial costs, but provides very limited benefits to law enforcement efforts.

The Subcommittee will also seek to determine the costs of the S. 2153 proposal to confiscate all handguns in certain urban areas and a certain number of handguns in other areas of the country. In addition, since S. 2153 would expose urban dwellers in possession of a handgun to penalties up to five years in prison and a \$5,000 fine, while persons living in rural and suburban areas would not be in violation of the law at all by possessing the same handgun, the Subcommittee will be considering certain constitutional and policy problems which may be presented by this approach.

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<sup>1</sup> Introduced on July 21, 1975 by Senators Javits and Percy, cited as the "Intergovernmental Handgun Control Act."



94TH CONGRESS  
1ST SESSION

# S. 2153

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## IN THE SENATE OF THE UNITED STATES

JULY 21, 1975

Mr. JAVITS (for himself and Mr. PERCY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Intergovernmental Cooperation Act to prevent lawless and irresponsible use of handguns in selected areas with high crime rates, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act may be cited as the "Intergovernmental Hand-  
4       gun Control Act".

### 5               STATEMENT OF FINDINGS AND PURPOSE

6       SEC. 2. (a) The Congress finds that—

7               (1) the effectiveness of cooperative intergovern-  
8       mental efforts to control illicit handgun traffic by Fed-  
9       eral, State, and local governmental agencies are hindered

II

1       by a lack of coordination among each level of govern-  
2       ment and the failure to develop and share necessary  
3       statistical and criminal intelligence information;

4           (2) Federal, State, and local governmental agen-  
5       cies have found it difficult to mobilize existing law en-  
6       forcement resources to mount more effective efforts to  
7       control the illegal traffic in and use of handguns;

8           (3) the increasing rate of illegal activities involving  
9       the use of handguns constitutes a threat to national  
10      public safety, health, and welfare and requires a more  
11      strengthened and consolidated effort at the Federal level;

12          (4) since the enactment of Public Law 90-351  
13      there continues to be widespread traffic in handguns  
14      moving in or otherwise affecting commerce, and that  
15      existing Federal procedures and organizational struc-  
16      tures do not adequately enable the Senate to control il-  
17      licit handgun traffic within each State;

18          (5) annual sales of handguns in the United States  
19      have continued to rise since 1968, despite the provisions  
20      of the Gun Control Act of 1968; and

21          (6) handguns continue to play a major role, and a  
22      role disproportionate to their number in comparison with  
23      long guns, in the commission of homicide, aggravated  
24      assault, armed robbery, and other crimes of violence.

25          (b) It is the purpose of this Act to provide (1) a new  
26      organizational structure for improved performance, coordi-



1 nation, and evaluation of firearms control functions at the  
2 Federal level, (2) more effective coordination between Fed-  
3 eral, State, and local governmental agencies in an effort to  
4 assist States and localities in improving interstate and local  
5 regulation of illicit handgun traffic, (3) procedures for the  
6 prohibition of handguns in certain areas with high crime  
7 rates, without placing any undue Federal burden on law abid-  
8 ing citizens with respect to the use of firearms for sporting  
9 and other lawful purposes, and (4) for increased public  
10 safety by banning the manufacture, sale, importation, and  
11 possession of handguns not suitable for sporting or other law-  
12 ful purpose.

13 TITLE I—INTERGOVERNMENTAL COOPERATION  
14 ACT AMENDMENTS

15 SEC. 101. (a) Title 42, United States Code, chapter  
16 52 is amended by adding at the end thereof the following  
17 new subchapter:

18 “SUBCHAPTER VI—TECHNICAL SERVICES FOR  
19 STATES AND LOCAL UNITS OF GOVERN-  
20 MENT IN CONTROLLING ILLICIT HANDGUN  
21 TRAFFIC

22 “§ 4245. National handgun statistics

23 “(a) In order to provide for more effective, intergov-  
24 ernmental efforts in controlling illicit, interstate handgun  
25 traffic, the Attorney General, is authorized and directed,

1 subject to the provisions of section 552 (a) of title 5, United  
2 States Code, "The Privacy Protection Act of 1974",—

3 " (1) establish and maintain a national handgun  
4 statistics office which shall be responsible for identify-  
5 ing—

6 " (A) the name, address, and social security  
7 or taxpayer identification number of any person in  
8 the United States possessing a handgun,

9 " (B) the number, if any, of the handgun  
10 license required by the State or locality of residence  
11 of the individual possessing a handgun,

12 " (C) the name of the manufacture, the caliber  
13 or gauge, the model and type, and the serial  
14 number of each such handgun, and

15 " (D) the importation, production, shipment,  
16 receipt, sale, or resale or any other disposition of  
17 any handgun;

18 " (2) establish procedures for the verification of the  
19 information collected under clause (1) of this subsec-  
20 tion, and to analyze such information; and

21 " (3) distribute, upon request, the Federal, State,  
22 and local law enforcement agencies information de-  
23 veloped and maintained by the Office established by this  
24 subsection.

## 5

1       “(b) Notwithstanding any other provision of this title,  
2 no information of any kind shall be collected, maintained,  
3 or disseminated concerning any shotgun, short barreled  
4 shotgun, rifle, or short barreled rifle.

5       “(c) In order to carry out the provisions of this sec-  
6 tion, each importer, manufacturer, dealer, and collector  
7 and each person who possesses a handgun on the effective  
8 date of this Act shall furnish to the Attorney General the  
9 information required by subsection (a) of this section in  
10 such form, at such time, and at such place, as the Attorney  
11 General may by regulation prescribe.

12       “(d) In order to carry out the provisions of subsection  
13 (a) of this section each importer, manufacturer, dealer, col-  
14 lector, and any person who and any Federal, State, or local  
15 unit of government which owns or possesses a handgun after  
16 the effective date of this Act and—

17               “(1) who has lost a handgun after such effective  
18 date, or

19               “(2) who has had a handgun stolen after the effec-  
20 tive date of this Act,

21 shall report the loss or theft of the handgun to the Attorney  
22 General not later than sixty days after the discovery of the  
23 loss or theft, in such form, at such place, and containing such  
24 description of the circumstances of the loss or theft, as the  
25 Attorney General may by regulation prescribe.

1   **“§ 4246. Exemptions; penalties**

2       “(a) The provisions of section 4245 of this title shall  
3 not apply to any handgun or handgun ammunition suitable  
4 for use in a handgun sold or delivered to or possessed by the  
5 United States or any department or agency of the United  
6 States, or any State or any department or agency of a State,  
7 or any political subdivision of a State or any department or  
8 agency of a political subdivision of a State.

9       “(b) Whoever fails to comply with the provisions of  
10 the subchapter or knowingly makes any false statement or  
11 representation with respect to any information required by  
12 the provisions of section 4245 (a) or violates any provision  
13 of section 4245 (b) or section 4245 (c) shall be fined not  
14 more than \$5,000, or imprisoned not more than five years,  
15 or both.

16   **“§ 4247. Verification of data concerning firearms transac-**  
17       **tions**

18       “(a) (1) It shall be unlawful for any licensed importer,  
19 licensed manufacturer, licensed dealer, or licensed collector  
20 to sell or otherwise dispose of any firearm or ammunition to  
21 any person (other than those exempted under section 4246  
22 above and another licensed importer, manufacturer, dealer,  
23 or collector) until—

24       “(A) such importer, manufacturer, dealer, or col-  
25 lector has, prior to the shipment or delivery of the fire-

1 arm, forwarded by registered or certified mail (return  
2 receipt requested) a card in such form as the Attorney  
3 General shall prescribe setting forth the name and  
4 address of the transferee and that the transferee—

5 “(i) is (is not) under indictment for, or has  
6 been (has not been) convicted in any court of a  
7 crime punishable by imprisonment for a term ex-  
8 ceeding one year;

9 “(ii) is (is not) a fugitive from justice; to the  
10 Department of Justice, Washington, District of Co-  
11 lumbia, and has received a return receipt evidencing  
12 delivery of the form by the Department; and

13 “(B) such importer, manufacturer, dealer, or col-  
14 lector has delayed shipment or delivery for a period of  
15 at least ten days after the receipt of the notification of  
16 the acceptance of the delivery of that form.

17 The Attorney General shall take whatever action is neces-  
18 sary promptly to process the forms to determine the relevant  
19 information with respect to the transferee named in the sub-  
20 mitted form and return the form by the speediest means  
21 available to the appropriate importer, manufacturer, dealer,  
22 or collector. The contents of the form required under this  
23 paragraph shall not be divulged by any Government offi-  
24 cial to any other person other than the appropriate importer,  
25 manufacturer, dealer, or collector and the appropriate law



1 enforcement officials as prescribed pursuant to regulations  
2 prescribed by the Attorney General.

3 “(2) It shall be unlawful for any licensed importer,  
4 licensed manufacturer, licensed dealer, or licensed collector  
5 to sell or otherwise dispose of any firearm or ammunition  
6 to any person without first requiring the presentation of  
7 reasonable proof of such person’s identity, and the fact that  
8 he or she is a bona fide resident of the State and of the  
9 standard metropolitan statistical area in which such sale or  
10 other disposition is to take place, and is over the age of  
11 twenty-one knowing or having reasonable cause to believe  
12 that such person—

13 “(A) is under indictment for, or has been convicted  
14 in any court of, a crime punishable by imprisonment for  
15 a term exceeding one year;

16 “(B) is a fugitive from justice;

17 “(C) is an abuser of any depressant or stimulant  
18 drug (as defined in section 201 (v) of the Federal Food,  
19 Drug, and Cosmetic Act) or narcotic drug (as defined  
20 in section 4731 (a) of the Internal Revenue Code of  
21 1954); and

22 “(D) has been adjudicated as a mental defective  
23 or has been committed to any mental institution.

24 “(3) This subsection shall not apply with respect to the  
25 sale or disposition of a firearm or ammunition to a licensed

1 importer, licensed manufacturer, licensed dealer, or licensed  
2 collector who is not precluded from dealing in firearms or  
3 ammunition, or, to a person who has been granted relief  
4 from disabilities pursuant to subsection (c) of such section  
5 of such chapter.

6 “(4) It shall be unlawful one hundred and twenty days  
7 after the effective date of this Act for any licensed importer,  
8 manufacturer, dealer, or collector, or any other person to sell  
9 or otherwise dispose of a handgun or handgun ammunition  
10 to any resident of any standard metropolitan statistical area  
11 identified by the Attorney General pursuant to section 4253  
12 of this title if he knows or has reasonable cause to know that  
13 such handgun or handgun ammunition will be transported  
14 into a standard metropolitan statistical area.

15 **“§ 4248. Requirement upon resale**

16 “(a) It shall be unlawful for any licensed importer,  
17 licensed manufacturer, licensed dealer or licensed collector  
18 to sell or deliver any handgun or ammunition suitable for a  
19 handgun after the effective date of the Intergovernmental  
20 Law Enforcement Cooperation and Reorganization Act of  
21 1975 unless such importer, manufacturer, dealer, or collector  
22 has submitted to the Attorney General the information re-  
23 quired by section 4245 (a) (1) (A), (B), and (C) of such  
24 Act.

1       “(b) (1) It shall be unlawful for any person to re-  
2 sell sixty days after the effective date of the Intergovern-  
3 mental Law Enforcement Cooperation and Reorganization  
4 Act of 1975 any handgun unless such person has submitted  
5 to the Attorney General the information required by section  
6 4245 (a) (1) (A), (B), and (C) of such Act, and com-  
7 plied with the provisions of section 4250 of this title.

8       “(2) It shall be unlawful for any importer, manu-  
9 facturer, dealer, or collector to sell any handgun to any per-  
10 son except a licensed importer, manufacturer, dealer, or  
11 collector without first giving notice of the requirement of  
12 paragraph (b) of this subsection.

13       “(3) For the purpose of this subsection the term  
14 ‘resell’ means the sale, or offer for sale of any handgun after  
15 the first purchase of it in good faith for purposes other than  
16 resale, and includes any gift, devise, or other transfer of  
17 ownership of a handgun.

18       **“§ 4249. Ban on sale of multiple handguns**

19       “‘It shall be unlawful for any person including an im-  
20 porter, manufacturer, dealer, or collector licensed under the  
21 provisions of Federal law, to sell or deliver more than one  
22 handgun within one calendar year to any person except a  
23 licensed importer, manufacturer, dealer, or collector or to  
24 persons and organizations exempt under section 4246 of  
25 this subchapter.

1   **“§ 4250. Theft prevention and security standards required**

2       “(a) No application for a license to engage in business  
3 as a firearms or ammunition importer, manufacturer, or  
4 dealer submitted pursuant to Federal law shall be approved  
5 unless the applicant is in compliance with theft prevention  
6 and security standards prescribed under paragraph (b) of  
7 this section.

8       “(b) The Attorney General shall within ninety days  
9 after the effective date of this Act prescribe standards for  
10 theft prevention and security requirements for importers,  
11 manufacturers, dealers, and common carriers who transfer  
12 handguns in interstate commerce who are licensed under the  
13 provisions of Federal law. Such standards shall be promul-  
14 gated in accordance with the provisions of chapter 5 of title  
15 5, United States Code.

16   **“§ 4251. Authorization for joint Federal-local task forces**  
17       **for handgun trafficking control**

18       “(a) The Attorney General is authorized to enter into  
19 agreements with States, cities, localities, and other units  
20 of local government to establish temporary task forces com-  
21 prised of Federal, State, and local law enforcement per-  
22 sonnel which shall—

23           “(1) identify and trace handguns that have been  
24 transported interstate, illegally, and used in the commis-

## 12

1 sion of crimes, develop and exchange intelligence in-  
2 formation regarding such illegal operations and assist  
3 in apprehending and prosecuting violators of the law;  
4 and

5 “(2) collect, analyze, and make available specific  
6 data on the amount, nature, and flow of handguns in  
7 interstate commerce.

8 “(b) There are authorized to be appropriated such  
9 sums as may be necessary to carry out the provisions of this  
10 section.

11 **“§ 4251A. Federal firearms licenses standards required**

12 “The Attorney General shall within ninety days after  
13 the effective date of this Act prescribe standards to assure  
14 that Federal licenses to manufacture, import, or deal in fire-  
15 arms will be issued only to persons determined to be respon-  
16 sible and legitimately engaged in the business for which  
17 the license is sought. Such standards shall be promulgated  
18 in accordance with the provisions of chapter 5, United  
19 States Code.”.

20 SEC. 102. (a) Title 42, United States Code, chapter 52,  
21 is amended further by adding at the end thereof the following  
22 new subchapter:



1 "SUBCHAPTER VII—EMERGENCY ASSISTANCE  
 2 FOR CERTAIN LOCAL UNITS OF GOVERNMENT  
 3 AND STANDARD METROPOLITAN STATISTI-  
 4 CAL AREAS IN CONTROLLING ILLICIT HAND-  
 5 GUN TRAFFIC

"Sec.

"4252. Definitions.

"4253. Application.

"4254. Prohibition on possession of handguns.

"4255. Termination of applicability.

"4256. Exceptions.

"4257. Penalty.

"4258. Disposition of handguns; amnesty.

"4259. Rules and regulations; assistance to the Attorney General.

6 **"§ 4252. Definitions**

7 "As used in this chapter—

8 "(1) The term 'ammunition' means ammunition or  
 9 cartridge cases, primers, bullets, or propellant powder de-  
 10 signed for use in any handgun.

11 "(2) The term 'crime of violence' means any of the  
 12 following crimes, or an attempt to commit any such crime:  
 13 Murder, manslaughter, rape, mayhem, maliciously disfigur-  
 14 ing another, abduction, kidnaping, burglary, robbery, house-  
 15 breaking, larceny, any assault with intent to kill, commit  
 16 or assault with intent to commit any offense punishable by  
 17 imprisonment for a term exceeding one year.

1       “(3) The term ‘handgun’ means any weapon designed  
2 or redesigned to be fired while held in one hand; having  
3 a barrel less than ten inches in length and designed or  
4 redesigned or made or remade to use the energy or an  
5 explosive to expel a projectile or projectiles through smooth  
6 or rifled bore.

7       “(4) The term ‘possess’ means asserting ownership or  
8 having custody and control not subject to termination by  
9 another or after a fixed period of time.

10       “(5) The term ‘standard metropolitan statistical area’  
11 means any area as defined by the Director of the Office  
12 of Management and Budget having a city as one of its  
13 components with a population of at least fifty thousand  
14 residents.

15       “(6) The term ‘sell’ means give, bequeath, or otherwise  
16 transfer ownership.

17       **“§ 4253. Application**

18       “(a) The provisions of this chapter shall apply to any  
19 political subdivision which is a component of a standard  
20 metropolitan statistical area with respect to which the Attor-  
21 ney General determines—

22               “(A) the rate of crime for crimes of violence in that  
23 standard metropolitan statistical area is 120 percent of  
24 the rate of crime for crimes of violence for the United  
25 States, or

## 15

1           “(B) the rate of crime for crimes of violence in that  
2           standard metropolitan statistical area is 110 percent of  
3           the rate of crime for crimes of violence for the United  
4           States and is 105 percent of such rate for crimes of vio-  
5           lence in that area for the year preceding the year for  
6           which the determination is made.

7           “(b) The provisions of this chapter shall also apply to  
8           any political subdivision which, within ninety days after the  
9           effective date of the Handgun Enforcement Reorganization  
10          Act of 1975 or within sixty days after the beginning of any  
11          calendar year beginning with the year after such date, noti-  
12          fies the Attorney General of the desire of such subdivision to  
13          be subject to the provisions of this chapter.

14          “(c) The Attorney General shall make the initial deter-  
15          mination under subsection (a) of this section not later than  
16          ninety days after the effective date of this Act. Subsequent  
17          determinations for the applications of the provisions of this  
18          chapter may be made not later than sixty days after the  
19          beginning of any calendar year beginning with the year after  
20          the year in which the initial determination was made. All  
21          determinations made under this section shall be based upon  
22          the most satisfactory recent data available to the Attorney  
23          General, and shall be published in the Federal Register.

1   **“§ 4254. Prohibition against possession of handguns in**  
2                   **high crime areas**

3            “It shall be unlawful for any person, except as provided  
4 in section 4256 of this Act, thirty days after a determination  
5 has been made under section 932 of this chapter, who is a  
6 resident of any standard metropolitan statistical area subject  
7 to that determination to sell, deliver, possess, import, or to  
8 cause to be sold, delivered, possessed, or imported a handgun  
9 or ammunition suitable for use in a handgun.

10   **“§ 4255. Termination of applicability of this chapter**

11           “(a) Not earlier than five years after the year in which  
12 the determination under section 932 is made, the Attorney  
13 General may terminate the applicability of the provisions  
14 of this chapter with respect to any standard metropolitan  
15 statistical area if the Attorney General determines that—

16               “(1) (A) the rate of crime for crimes of violence  
17 in that standard metropolitan statistical area is 80 per-  
18 cent of the crime rate for crimes of violence for the  
19 United States, or

20               “(B) the rate of crime for crimes of violence in that  
21 standard metropolitan statistical area is 90 percent of  
22 the crime rate for crimes of violence for the United  
23 States and is 95 percent of such rate for crimes of  
24 violence in that area for the year preceding the year for  
25 which the determination is made;

1           “(2) that any pattern of illegal activity which  
2       showed evidence of danger to the residents of that area  
3       and which involved offenses committed with the use of  
4       handguns in violation of the laws of the United States  
5       has ceased to exist; and

6           “(3) the termination of the applicability of the  
7       provisions of this chapter to that standard metropolitan  
8       statistical area is not likely to result in a significant rise  
9       in the incidence of crimes of violence.

10       “(b) Any determination made under subsection (a) of  
11       this section shall be based upon the most satisfactory recent  
12       data available to the Attorney General, and shall be pub-  
13       lished in the Federal Register.

14       **“§ 4256. Exceptions**

15       “(a) The provisions of this subchapter shall not apply  
16       to any handgun or ammunition suitable for use in a handgun  
17       sold or delivered to or possessed by the United States or any  
18       department or agency of the United States, or any State or  
19       any department or agency of a State, or any political sub-  
20       division of a State or any department or agency of a political  
21       subdivision of a State.

22       “(b) The provisions of this subchapter shall not apply  
23       to any handgun or ammunition suitable for use in a handgun  
24       sold or delivered to or possessed by any agency which fur-  
25       nishes security guard services if that agency is licensed by



1 the State or a political subdivision of the State in which the  
2 handgun or the handgun ammunition is to be used and its  
3 employees are licensed and authorized to furnish such security  
4 service in the State or political subdivision concerned.

5 **“§ 4257. Penalties**

6 “Whoever violates any provisions of this chapter or  
7 knowingly makes any false statement or representation with  
8 respect to any information required by the provisions of  
9 this chapter shall be fined not more than \$5,000, or im-  
10 prisoned not more than five years, or both.

11 **“§ 4258. Disposition of handguns to the Attorney General;**  
12 **amnesty**

13 “(a) (1) Any person who prior to a determination  
14 made under section 4254 of this chapter lawfully possessed a  
15 handgun or handgun ammunition and who becomes ineligible  
16 to possess such handgun or ammunition by virtue of that  
17 provision, shall, if within sixty days after it becomes illegal  
18 for any such person to possess such handgun or handgun  
19 ammunition, receive reasonable compensation for the hand-  
20 gun or the handgun ammunition or both upon its surrender  
21 to the Attorney General.

22 “(2) The Attorney General is authorized to pay reason-  
23 able value for handguns and handgun ammunition voluntarily  
24 relinquished to him under this section.

## 19

1       “(3) The Attorney General is authorized to take the  
2 action necessary to facilitate carrying out the provisions of  
3 this section including advertisement within the standard  
4 metropolitan statistical area concerned.

5       “(b) (1) The Attorney General may whenever he con-  
6 sidered it will carry out the objectives of this chapter provide  
7 for periods of amnesty during which persons who voluntarily  
8 surrender handguns or handgun ammunition or both may  
9 be paid reasonable value for their surrender as provided in  
10 subsection (a) and shall be granted immunity from prosecu-  
11 tion for unlawful possession of such handgun or handgun  
12 ammunition.

13       “(2) Nothing in this section shall be construed as  
14 granting immunity from prosecution by any court for any  
15 crime other than the unlawful possession of a handgun or  
16 handgun ammunition.

17       “§ 4259. Rules and regulations; assistance to the Attorney

18                       **General**

19       “(a) The Attorney General may prescribe such rules  
20 and regulations as he deems reasonably necessary to carry out  
21 the provisions of this chapter.

22       “(b) When requested by the Attorney General the head  
23 of each department and agency of the Federal Government  
24 shall assist the Attorney General in the administration of the  
25 provisions of this chapter.”.

1       SEC. 203. (a) Title 42, United States Code, chapter 52  
2 is amended further by adding at the end thereof the following  
3 new subchapter:

4       “SUBCHAPTER VIII—INTERGOVERNMENTAL RE-  
5       DUCTION OF HANDGUN RELATED CRIMES

6       “§ 4260. **Prohibition of certain handguns**

7       “(a) It shall be unlawful for any person to import, man-  
8 ufacture, sell, buy, transfer, receive, transport, or possess any  
9 handgun which the Attorney General determines to be un-  
10 suitable for law enforcement, military uses, hunting, sport  
11 shooting and other lawful purposes based upon standards  
12 established by the Attorney General.

13       “(b) (A) The Attorney General may, consistent with  
14 public safety and necessity, exempt from the operations of  
15 paragraph (1) of this subsection such importation, manufac-  
16 ture, sale, purchase, transfer, receipt, transportation, or pos-  
17 session of handguns by importers, manufacturers, or dealers  
18 licensed under this chapter.

19       “(B) Such exemptions may take into consideration the  
20 needs of police officers, security guards, sportsmen, target  
21 shooters, firearms collectors, and other lawful uses.

22       “(C) For the purposes of this subsection the term ‘hand-  
23 gun’ means any weapon designed or redesigned and in-  
24 tended to be fired while held in one hand; having a barrel  
25 less than ten inches in length and designed, redesigned, or

1 made or remade to use the energy of an explosive to expel a  
2 projectile or projectiles through a smooth or rifled bore.

3 “(c) (1) Any person who prior to a determination made  
4 under subsection (a) of this chapter lawfully possessed a  
5 handgun or handgun ammunition and who becomes ineligi-  
6 ble to possess such handgun or ammunition and who becomes  
7 ineligible to possess such handgun or ammunition by virtue  
8 of that provisions, shall, if within sixty days after it becomes  
9 illegal for any such person to possess such handgun or hand-  
10 gun ammunition, receive reasonable compensation for the  
11 handgun or the handgun ammunition or both upon its sur-  
12 render to the Attorney General.

13 “(2) The Attorney General is authorized to pay reason-  
14 able value for handguns and handgun ammunition volun-  
15 tarily relinquished to him under this section.

16 “(3) The Attorney General is authorized to take the  
17 action necessary to facilitate carrying out the provisions of  
18 this section including advertisement within the standard  
19 metropolitan statistical area concerned.

20 “(b) (1) The Attorney General may whenever he  
21 considers it will carry out the objectives of this chapter pro-  
22 vide for periods of amnesty during which persons who volun-  
23 tarily surrender handguns or handgun ammunition or both  
24 may be paid reasonable value for their surrender as pro-  
25 vided in subsection (a) and shall be granted immunity from

1 prosecution for unlawful possession of such handgun or hand-  
2 gun ammunition.

3 “(2) Nothing in this section shall be construed as  
4 granting immunity from prosecution by any court for any  
5 crime other than the unlawful possession of a handgun or  
6 handgun ammunition.”.

### 7 TITLE III—MISCELLANEOUS PROVISIONS

8 SEC. 301. EFFECTIVE DATE.—(a) Except as pro-  
9 vided in subsection (b) and (c) of this section, the amend-  
10 ment made by this Act shall take effect on the first day of the  
11 third month after its enactment.

12 (b) The provisions of title II, except the provisions of  
13 sections 4245 and 4246 take effect sixty days after the date  
14 of enactment of this Act, or on such prior date after enact-  
15 ment of this Act, as the President shall prescribe and  
16 publish in the Federal Register.

17 (c) Notwithstanding subsections (a) or (b), the officer  
18 provided for in section 102 may be appointed in the manner  
19 provided for in this Act, at any time after the date of enact-  
20 ment of this Act. That officer shall be compensated from  
21 the date he first takes office, at the rate provided for in this  
22 Act. Such compensation and related expenses of his office  
23 shall be paid from funds available for the functions to be  
24 transferred to the Department pursuant to this Act.



CRIMINAL JUSTICE PROGRAM

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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

PROPOSALS FOR DEALING WITH CRIME IN THE STREETS



JUNE 19, 1975.—Message referred to the Committee on the Judiciary  
and ordered to be printed

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*To the Congress of the United States:*

I address this message to the Congress on a subject that touches the lives of all Americans: crime.

Two months ago, at the celebration of the 150th anniversary of the Yale Law School, I spoke about law and respect for the spirit of the law.

Law makes human society possible. It pledges safety to every member so that the company of fellow human beings can be a blessing instead of a threat. It is the instrument through which we seek to fulfill the promise of our Constitution: "to insure domestic tranquility."

But America has been far from successful in dealing with the sort of crime that obsesses America day and night—I mean street crime, crime that invades our neighborhoods and our homes—murders, robberies, rapes, muggings, hold-ups, breakins—the kind of brutal violence that makes us fearful of strangers and afraid to go out at night.

I sense, and I think the American people sense, that we are facing a basic and very serious problem of disregard for the law. Because of crime in our streets and in our homes, we do not have domestic tranquility.

Ever since the first Presidential message on crime, in 1965, strenuous Federal efforts, as well as State and local initiatives, have been undertaken to reduce the incidence of crime in the United States. Yet, throughout this period, crime has continued to increase. Indeed, the Federal Bureau of Investigation's latest estimates are that the rate of serious crime—murder, forcible rape, robbery, aggravated assault, burglary, larceny and auto theft—was 17 percent higher in 1974 than in 1973. This is the largest increase in the 44 years the Bureau has been collecting statistics.

Since 1960, although billions of dollars have been spent on law enforcement programs, the crime rate has more than doubled. Moreover, these figures reflect only the reported crimes. A study of unreported crime sponsored by the Law Enforcement Assistance Administration indicates that the actual level of crime in some cities is three to five times greater than that reported.

More significantly, the number of crimes involving threats of violence or actual violence has increased. And the number of violent crimes in which the perpetrator and the victim are strangers has also increased. A recent study indicates that approximately 65 percent of all violent crimes are committed against strangers.

The personal and social toll that crime exacts from our citizens is enormous. In addition to the direct damage to victims of crime, violent crimes in our streets and in our homes make fear pervasive.

In many areas of the country, especially in the most crowded parts of the inner cities, fear has caused people to rearrange their daily lives. They plan shopping and recreation during hours when they think the possibilities of violent attacks are lower. They avoid commercial areas and public transit. Frightened shopowners arm themselves and view customers with suspicion.

The individual, political and social costs of crime cannot be ignored. They demand our attention and coordinated action. With the firm support of the American people, all levels of government—Federal, State and local—*must* commit themselves to the goal of reducing crime.

For too long, law has centered its attention more on the rights of the criminal defendant than on the victim of crime. It is time for law to concern itself more with the rights of the people it exists to protect.

In thinking about this problem, I do not seek vindictive punishment of the criminal, but protection of the innocent victim. The victims are my primary concern. That is why I do not talk about law and order and why I turn to the Constitutional guarantee of domestic tranquility. The emphasis in our efforts must be providing protection for the victims of crime.

In this message, I shall address myself to what I believe the Federal government can and should do to reduce crime. The fact is, however, that the Federal role in the fight against crime, particularly violent crime, is a limited one.

With few exceptions, the kinds of crimes that obsess America—murders, robberies, rapes, muggings, hold-ups, breakins—are solely within the jurisdiction of State and local governments. Thus, while the programs that I will propose in this message will, if enacted, contribute to a safer America, the level of crime will not be substantially reduced unless State and local governments themselves enact strong measures.

I see three ways in which the Federal government can play an important role in combating crime:

First, it can provide leadership to State and local governments by enacting a criminal code that can serve as a model for other jurisdictions to follow and by improving the quality of the Federal criminal justice system.

Second, it can enact and vigorously enforce laws covering criminal conduct within the Federal jurisdiction that cannot be adequately regulated at the State or local level.

Third, it can provide financial and technical assistance to State and local governments and law enforcement agencies, and thereby enhance their ability to enforce the law.

#### I. PROVIDING LEADERSHIP

Law Enforcement in a democratic society depends largely upon public respect for the laws and voluntary compliance with them. We do not have and do not want a police state. Respect and compliance are undermined if individuals conclude that law enforcement efforts are ineffective and that crimes may be committed with impunity—conclusions which are buttressed by rapidly rising crime rates and by statistics showing only one arrest for every five serious crimes committed.

A decline in respect for the law leads to the commission of more crimes. The necessity to investigate these additional crimes, prosecute those accused, and punish those convicted places even greater strain on the already overburdened capacities of police, prosecutors, public defenders, courts, penal institutions and correctional authorities. As a

consequence, the percentage of offenders apprehended, prosecuted and appropriately sentenced is further reduced. This leads to an even greater decline in respect for the law and to the commission of even more crimes. To succeed in the effort to reduce crime, we must break this spiral.

There are two direct ways to attack the spiral of crime. One is through improvements in the law itself. The other is through improvement of the criminal justice system so that it functions more swiftly, surely and justly.

Federal criminal laws should be a model upon which State and local governments can pattern their own laws. At the present time, they are not. These Federal statutes developed haphazardly over the decades. They have been revised here and there in response to changing judicial interpretation. They are complicated, and sometimes conflicting, leaving gaps through which criminal activity too often slips unpunished. Because of their complexity, the laws invite technical arguments that waste court time without ever going to the heart of the question of the accused's guilt or innocence.

For several years, the Federal government has engaged in a massive effort to reform the Federal criminal laws into a uniform, coherent code. The product of this effort was recently introduced in Congress, with wide bipartisan support, as S. 1, the "Criminal Justice Reform Act of 1975."

Since it covers every aspect of criminal law, some of the proposals in this Act have stirred controversy and will undoubtedly precipitate further debate. For instance, concern has been expressed that certain provisions of the bill designed to protect classified information could adversely affect freedom of the press. While we must make sure that national security secrets are protected by law, we must also take care that the law does not unreasonably restrict the free flow of information necessary to our form of government. Responsible debate over this and other provisions of S. 1 will be very useful. Issues can be clarified and differing interests accommodated.

I think everyone will agree, however, that comprehensive reform of the Federal criminal code is needed. Accordingly, as a legislative priority in the Federal effort against crime, I urge the 94th Congress to pass the kind of comprehensive code reform embodied in the Criminal Justice Reform Act.

In connection with this overall effort, let me suggest some specific reforms I believe essential.

The sentencing provisions of current Federal law are, in my judgment, inadequate in several respects, often erratic and inconsistent. Defendants who commit similar offenses may receive widely varying sentences. This lack of uniformity is profoundly unfair and breeds disrespect for the law.

The revision of the criminal code should restore a sense of consistency in sentencing, so that the fine or term of imprisonment imposed by the law relates directly to the gravity of the offense. For example, criminal fines are woefully inadequate and provide little deterrence to offenders whose business *is* crime—a business profitable enough to support current levels of criminal fines as an ordinary business expense. Other than under the antitrust laws, the maximum fine which can be imposed on serious violators is usually \$10,000. That



amount is too often not commensurate with the crime. The maximum level should be increased to \$100,000, if the defendant is an individual, and \$500,000, if the defendant is an organization.

The sentencing provisions of the proposed code should be modified to provide judges with standards under which prison sentences are to be imposed upon conviction. Imprisonment too seldom follows conviction, even for serious offenses. It is my firm belief that persons convicted of violent crime should be sent to prison. Those who prey on others, especially by violence, are very few in number. A small percentage of the entire population accounts for a very large proportion of the vicious crimes committed. Most serious crimes are committed by repeaters. These relatively few persistent criminals who cause so much worry and fear are the core of the problem. The rest of the American people have a right to protection from their violence.

Most of the victims of violent crimes are the poor, the old, the young, the disadvantaged minorities, the people who live in the most crowded parts of our cities, the most defenseless. These victims have a valid claim on the rest of society for protection and personal safety that they cannot provide for themselves; in a phrase, for domestic tranquility.

Imprisonment too seldom follows conviction for a felony. In the 1960's, crime rates went higher, but the number of criminals in prison, state and federal, actually went down. A study of one major jurisdiction showed that of all convicted robbers with a major prison record, only 27% were sent to prison after conviction.

There should be no doubt in the minds of those who commit violent crimes—especially crimes involving harm to others—that they will be sent to prison if convicted under legal processes that are fair, prompt and certain.

I propose that incarceration be made mandatory for (1) offenders who commit offenses under Federal jurisdiction using a dangerous weapon; (2) persons committing such extraordinarily serious crimes as aircraft hijacking, kidnapping, and trafficking in hard drugs; and (3) repeat offenders who commit Federal crimes—with or without a weapon—that cause or have potential to cause personal injury. Exceptions to mandatory imprisonment should apply only if the judge finds and specifies in writing one or more of the following: that the defendant was under 18 when the offense was committed, or was mentally impaired, or was acting under substantial duress, or was implicated in a crime actually committed by others and participated in the crime only in a very minor way. I have asked the Attorney General to assist the Congress in drafting this modification to the sentencing provisions of S. 1. Since most violent crime is in the jurisdiction of State and local criminal courts, I call upon the States to establish similar mandatory sentencing systems. Too many persons found guilty of serious, violent crimes never spend a day in prison after conviction.

I would emphasize that the aim of this program of mandatory imprisonment is not vindictive punishment of the criminal, but protection of the innocent victim by separating the violent criminal from the community. These victims—most of whom are old or poor or disadvantaged—have a valid claim on the rest of society for the protection and the personal safety that they cannot provide for themselves.



Reasonable mandatory minimum sentences can restore the sense of certainty of imprisonment upon which the deterrent impact of criminal law is based. Mandatory sentences need not be long sentences; the range of indeterminacy need not be great. In fact, wide disparities in sentences for essentially equivalent offenses give a look of unfairness to the law. To help eliminate that unfairness, Federal appeals courts should be given some authority to review sentences given by Federal trial court judges—to increase or reduce them so that the punishments will be more nearly uniform throughout the Federal system. I am also asking the Attorney General to review this problem to ensure that the Federal sentencing structure, which is now based on the indeterminate sentence, is both fair and appropriate. Among other things, it may be time to give serious study to the concept of so-called “flat time sentencing” in the Federal law.

In addition to reform of the criminal law, we must improve the manner in which our criminal justice system operates. Effective deterrence to law-breaking is currently lacking, in part because our criminal justice system simply does not operate effectively.

A logical place to begin discussion of such improvement is the prosecutor's office, for it is there that important decisions are made as to which offenders should be prosecuted, what cases should be brought to trial, when plea bargains should be struck and how scarce judicial resources should be allocated. Many prosecutors' offices currently lack the manpower or management devices to make those decisions correctly. Prosecutors often lack information on a defendant's criminal history and thus cannot identify habitual criminals who should be tried by experienced prosecutors and, if convicted, sent to prison. In too many cases, they lack efficient systems to monitor the status of the numerous cases they handle. If improved management techniques could be made available to prosecutors, the likelihood of swift and sure punishment for crime would be substantially increased.

At the Federal level, last September I directed the Department of Justice to develop and implement a program to deal with career criminals, with the objectives of (1) providing quick identification of persons who repeatedly commit serious offenses, (2) according priority to their prosecution by the most experienced prosecutors, and (3) assuring that, if convicted, they receive appropriate sentences to prevent them from immediately returning to society once again to victimize the community.

Programs to deal with habitual criminals will be encouraged at the State and local levels through the use of the Law Enforcement Assistance Administration model programs and discretionary grants already underway.

To illustrate the nature of this problem, let me point out that in one city over 60 rapes, more than 200 burglaries and 14 murders were committed by only 10 persons in less than 12 months. Unfortunately, this example is not unique.

The results of a repeat offender project recently launched in the Bronx County District Attorney's Office, City of New York, are hopeful. The first year's experience showed a 97 percent felony conviction rate and a reduction of time in case disposition from an average of 24

months to an average of three months. In addition, prison sentences resulted in 95 percent of the career criminal cases prosecuted.

A second improvement in the criminal justice system may be obtained by diverting certain first offenders—not all, but some—into rehabilitation programs before proceeding to trial. The Department of Justice has begun a pilot program of this kind designed to achieve two important goals. First, it will seek to reduce the caseloads of Federal courts and prosecutors through expeditious treatment of offenders who are good prospects for rehabilitation. Second, it will seek to enable the offenders who successfully satisfy the requirements of the diversion programs to avoid criminal records and thus increase the likelihood that they will return to productive lives.

Experimentation with pretrial diversion programs should continue and expand. However, careful efforts must be taken to prevent these programs from either treating serious offenders too leniently, or, on the other hand, violating defendants' rights. By coupling this pretrial diversion program with a mandatory term of imprisonment for violent offenders, we will make sure that offenders who deserve to go to prison will go to prison. At the same time, those who may not need imprisonment will be dealt with quickly and in a way that minimizes the burden on the criminal justice system.

The criminal and civil caseloads in trial and in appellate courts have grown over the years, while the number of judges assigned to handle those cases has not kept pace. In 1972, the Judicial Conference of the United States recommended the creation of 51 additional Federal District Court judgeships in 33 separate judicial districts across the country. Senate hearings on legislation incorporating this proposal were conducted in 1973. To date, however, the legislation has not been scheduled for floor action. The increasing needs of the Federal courts make this measure an urgent national necessity of a nonpartisan nature—for justice delayed is too often justice denied. In addition, seemingly technical but important reform in the Federal criminal justice system can be achieved by expanding the criminal jurisdiction of United States Magistrates. This reform will enable the relatively small number of Federal judges to focus their efforts on the most significant criminal cases. The Criminal Justice Reform Act contains a provision that will achieve that result, and I am giving it my specific support.

When a defendant is convicted, even for a violent crime, judges are too often unwilling to impose prison sentence, in part because they consider prison conditions inhumane. Moreover, a cruel and dehumanizing penal institution can actually be a breeding ground for criminality. In any case, a civilized society that seeks to diminish violence in its midst cannot condone prisons where murder, vicious assault and homosexual rapes are common occurrences.

The Federal Bureau of Prisons has embarked on a program to replace large, outdated prisons with smaller, more modern ones. The Bureau has seven new corrections institutions of this sort under construction. All are designed to be civilized places that can be governed effectively by the wardens and correctional officers rather than by the most brutal and inhuman prisoners. In addition, the Bureau is opening new institutions in three major cities to replace overcrowded, antiquated local jails which formerly housed Federal pris-

oners awaiting trial. The program to improve Federal prisons must be paralleled by State efforts, because the problem of decrepit prison facilities that are hothouses of crime is worst at the State and local level. Unless prisons are improved, many judges will only reluctantly commit convicted offenders to them, even if they are guilty of serious crimes and have previous criminal records.

I know that grave questions have been raised by qualified experts about the ability of the corrections system to rehabilitate offenders. These are important and serious questions. They go to the very heart of the corrections system. While the problem of criminal rehabilitation is difficult, we must not give up on our efforts to achieve it, especially in dealing with youthful offenders. Crime by young people represents a large part of crime in general. The 1973 statistics indicate that 45 percent of persons arrested for all crimes are under 18 years of age. Whatever the difficulty, we must continue our efforts to rehabilitate offenders, especially youthful offenders. To do less would be to write off great numbers of young people as unsalvageable before they have even come of age. I have directed the Attorney General, as Chairman of the Cabinet Committee on Crime Prevention and Rehabilitation, to work in close cooperation with the Secretary of Labor, the Secretary of Health, Education, and Welfare and other concerned agencies of the Executive Branch to ensure that the Federal government is making the best possible use of its resources in this crucial area.

Whatever the corrections system might accomplish in rehabilitating offenders while they are in prison will be lost if the individual leaves prison and cannot find a job, simply because he has been convicted of a crime. I urge employers to keep an open mind on the hiring of persons formerly convicted of crimes. The U.S. Civil Service Commission currently administers a program designed to prevent Federal employers from unjustly discriminating against ex-felons. I am directing the Commission to review this program to ensure that it is accomplishing its objectives. I am also calling on the National Governors Conference to consider steps the States can take to eliminate unjustified discriminatory practices. Giving ex-offenders who have paid their penalty and seek to "go straight" a fair shake in the job market can be an effective means of reducing crime and improving our criminal justice system.

In addition to this general effort to reform and improve the criminal justice system, the Federal law should be specifically revised to take into greater account the needs of victims of crime. They, as well as the general public, must be made aware that the government will not neglect the law-abiding citizens whose cooperation and efforts are crucial to the effectiveness of law enforcement.

I urge the Congress to pass legislation to meet the uncompensated economic losses of victims of Federal crimes who suffer personal injury. In order to promote the concept of restitution within the criminal law, the monetary benefits should come from a fund consisting of fines paid by convicted Federal offenders.

## II. BETTER LAWS AND ENFORCEMENT

As I pointed out initially, except in limited circumstances, street crime is a state and local law enforcement responsibility. There is a



dimension to this problem, however, that cannot be adequately dealt with on just the state and local levels. Criminals with handguns have played a key role in the rise of violent crime in America. Hundreds of policemen have been killed in the past decade through the use of handguns by criminals. The most effective way to combat the illicit use of handguns by criminals is to provide mandatory prison sentences for anyone who uses a gun in the commission of a crime.

In addition, the federal government can be of assistance to state and local enforcement efforts by prohibiting the manufacture of so-called Saturday Night Specials that have no apparent use other than against human beings and by improving Federal firearms laws and their enforcement.

At the same time, however, we must make certain that our efforts to regulate the illicit use of handguns do not infringe upon the rights of law abiding citizens. I am unalterably opposed to federal registration of guns or the licensing of gun owners. I will oppose any effort to impose such requirements as a matter of federal policy.

Nonetheless, we can take steps to further guard against the illicit use of handguns by criminals.

Current Federal gun laws should be revised to provide that only responsible, *bona fide* gun dealers be permitted to obtain Federal licenses to engage in the business of selling firearms. Licenses to sell firearms should also be withheld from persons who have violated State laws, particularly firearms laws. Additional administrative controls over the sale of handguns, including a ban on multiple sales, will help to establish dealer responsibility in stopping illicit gun trafficking. A waiting period between the purchase and receipt of a handgun should be imposed to enable dealers to take reasonable steps to verify that handguns are not sold to persons whose possession of them would be illegal under Federal, State or applicable local laws.

Second, I have ordered the Treasury Department's Bureau of Alcohol, Tobacco and Firearms, which has primary responsibility for enforcing Federal firearms laws, to double its investigative efforts in the Nation's ten largest metropolitan areas. This action will assist local law enforcement authorities in controlling illegal commerce in weapons. I have directed, therefore, that the Bureau of Alcohol, Tobacco and Firearms employ and train an additional 500 investigators for this priority effort.

Third, the domestic manufacture, assembly or sale—as well as the importation—of cheap, highly concealable handguns should be prohibited. These so-called "*Saturday Night Specials*" are involved in an extraordinarily large number of street crimes. Most have no legitimate sporting purpose. They are such a threat to domestic tranquility that we should eliminate their manufacture and sale entirely.

These recommendations go to the very heart of the problem of handgun abuse. If enacted, they should add significantly to the efforts of State and local law enforcement authorities to prevent the criminal use of handguns.

There are several other areas in which Federal law and enforcement can be improved to strike at those who have made crime a business.

The leaders of organized crime can be prosecuted under current Federal law only when it can be shown that they participated in a specific offense, such as gambling, loan-sharking or narcotics. A reformed criminal code should strike directly at organized criminal

activity by making it a Federal crime to operate or control a racketeering syndicate. This revision will make the criminal law apply to organized crime leaders who seek to conceal their role in the syndicate's criminal activities.

Since current Federal laws restrict the government's ability to attack consumer frauds, the statutes punishing fraud and theft should be revised to make Federal prosecution more effective. Pyramid sales schemes—clever confidence games, in other words—should be specifically prohibited. Federal jurisdiction over these frauds should be extended to enable the government to move against them on a nationwide basis.

The protection of constitutionally guaranteed civil rights is a primary duty of the Federal government. Yet, a private citizen can be punished for violating constitutional rights only if he acted in concert with others. Under current law, even if a State official intentionally commits acts that violate an individual's constitutional rights, proof of these acts alone may be insufficient to secure a conviction. Restrictions which prevent our laws from protecting the constitutional rights of Americans should be eliminated.

I am particularly concerned about the illegal trafficking in narcotics and dangerous drugs. These crimes victimize the entire Nation, bringing personal tragedy and family destruction to hundred of thousands. In addition to the human toll, the property crimes committed to finance addicts' drug habits are estimated at \$15 billion each year.

Federal, State and local governments must continue their vigorous law enforcement efforts aimed at major traffickers in narcotics and dangerous drugs. This Administration is committed to maintaining a strong Federal Drug Enforcement Administration to provide leadership in this fight. At the same time, I continue to recognize our responsibility to provide compassionate treatment and rehabilitation programs for the hapless victim of narcotics traffickers.

Recent evidence suggests an increase in the availability and use of dangerous drugs in spite of the creation of special Federal agencies and massive Federal funding during the past six years. I am deeply concerned over these developments and have, therefore, directed the Domestic Council to undertake a comprehensive review and assessment of the overall Federal drug abuse prevention, treatment and enforcement effort to ensure that our programs, policies and laws are appropriate and effective.

Finally, white-collar crime is taking an increasing toll in terms of financial and social costs. The United States Chamber of Commerce recently reported that in 1974 white-collar crime cost the public approximately \$40 billion, excluding the costs of price-fixing and industrial espionage. In addition to direct economic losses, white-collar crime can destroy confidence in and support for the nation's economic, legal and political institutions. In recognition of the gravity of the impact of white-collar crime, I have directed the Attorney General to undertake new initiatives to coordinate all Federal enforcement and prosecutorial efforts against white-collar crime.

### III. PROVIDING FINANCIAL AND TECHNICAL ASSISTANCE

The Federal government must continue to help State and local governments in carrying out their law enforcement responsibilities. There-



fore, I will submit to Congress a bill that will continue the Law Enforcement Assistance Administration through 1981.

The LEAA annually provides millions of dollars of support to State and local governments in improving the overall operation of their criminal justice systems. Additionally, the LEAA serves as a center for the development of new ideas on how to fight crime. Examples of several LEAA innovations have already been noted in this Message. The bill that I will submit will authorize \$6.8 billion for LEAA to continue its work through 1981.

Several aspects of the reauthorization bill deserve special mention. It will increase the annual funding authorization for LEAA from \$1.25 billion to \$1.3 billion. The additional \$250 million over five years will enable the agency's discretionary program to place greater emphasis on programs aimed at reducing crime in heavily populated urban areas. It is in these areas that the problem of violent street crime has reached critical proportions. The LEAA "High Impact" program, which is designed to provide additional assistance for cities and counties with high crime rates, has had encouraging success. This additional authorization will permit LEAA to build upon that success.

The bill will also place special emphasis on improving the operation of State and local court systems. Specifically, it will include such improvement within the statement of purposes for which LEAA block grant funds can be utilized. Too often, the courts, the prosecutors and the public defenders are overlooked in the allocation of criminal justice resources. If we are to be at all effective in fighting crime, state and local court systems, including prosecution and defense, must be expanded and enhanced.

In conclusion, I emphasize again that the Federal government cannot, by itself, bring an end to crime in the streets. The Federal government can seek the cooperation and participation of State and local governments. Such cooperation is vitally important to this effort. The cumulative effect of persistent Federal, State and local efforts to improve our laws and eliminate difficulties that encumber our criminal justice system offers the only hope of achieving a steady reduction in crime.

I am confident that, if the Congress enacts the programs that I have recommended, the means available for an effective attack on crime will have been substantially strengthened. I call upon the Congress to act swiftly on these recommendations. I also call upon State and local governments to move rapidly in strengthening their processes of criminal justice. Together, we will restore to this nation that sense of domestic tranquility so essential to the pursuit of happiness.

GERALD R. FORD.

THE WHITE HOUSE, *June 19, 1975.*

STATEMENT OF SENATOR BIRCH BAYH IN RESPONSE TO THE PRESIDENT'S CRIME  
MESSAGE OF JUNE 19, 1975

The crime message delivered by President Ford today contains several provisions which are remarkably similar to my Violent Crime and Repeat Offender Act introduced some weeks ago. Key provisions of my proposal have received Senate approval in past years and include:

1. The prohibition of the commercial sale and distribution of nonsporting handguns.
2. Strict mandatory sentencing for those convicted of using firearms in the commission of a felony.
3. Stiff mandatory prison sentences for adult, nonaddicted persons convicted of pushing heroin or morphine.
4. Federal penalties for those attempting to steal controlled drugs from pharmacies.
5. Stricter sentencing provisions for repeat violent criminal offenders.

I understand that the President's gun control measure is virtually identical to the bill I introduced and the Senate passed by a vote of 68-25 in 1972. This proposal, now Title II of my present bill, would ban the commercial sale of those small, easily concealable, nonsporting handguns which have become the favorite sidearm of street criminals. In addition, my bill also addresses the very serious problem of theft and interstate traffic, or 'gun-running,' which is so intimately related to handgun crime.

The President recommends mandatory penalties for drug offenders. I would hope that he would support my measure which focuses on the nonaddict, adult, high-volume profiteer of the French Connection variety, rather than the victims of addiction. Additionally, I recommend he consider the dramatic level of violence directed at pharmacies—typically armed robbery—to obtain dangerous drugs. Title V of my proposal specifically addresses this growing problem.

The President's proposal appears to address the serious problem of crime involving the use of firearms and thus is similar to Title II of my bill, providing mandatory penalties for these offenses, which passed the Senate 88-12 in 1973. His measure also contains provisions relating to repeat offenders. In this regard, I would invite his support for my Title V provisions which prohibit lenient sentencing of repeat violent offenders.

I am pleased that many of the President's proposals are identical or similar in thrust and objective to the Violent Crime and Repeat Offender Control Act. I am especially optimistic in view of his endorsement of what is commonly known as the Bayh Saturday Night Special bill.

I am shocked, however, at the failure of his message, which has been labeled comprehensive, to address which is the most significant aspect of our Nation's crime problems: juvenile crime and violence.

Juveniles under 22 years old account for 61 percent of the total arrests for serious crimes, while those 25-and-under account for a staggering 75 percent.

These figures are indeed alarming, but what is perhaps more frightening is that the system of juvenile justice which we have devised to meet this problem has not only failed, but in many instances succeeded only in making first offenders into violent criminals. For more than 4 years as Chairman of the Subcommittee to Investigate Juvenile Delinquency, I have stressed these concerns. Last summer the Congress enacted the Juvenile Justice and Delinquency Prevention Act which I introduced several years ago. This act is designed to prevent young people from entering our failing juvenile justice system and to assist communities in developing more sensible and economic approaches for youngsters already in the system.

The Ford administration has responded with marked indifference to the act. The President has repeatedly opposed its implementation and funding. I was mistaken in my optimism that the President had reassessed and would support this bipartisan measure, which passed the Senate and the House of Representatives by a vote of 88 to 1 and 324 to 20, respectively.

The failure of this President, like his predecessor, to deal with juvenile crime and his insistent stifling of an act designed to curb this escalating phenomenon is the Achilles' heel of the administration's approach to crime.

When we couple the Juvenile Justice Act, with my Violent Crime and Repeat Offender Control Act, we have a comprehensive crime fighting program. It is a program which vigorously pursues alternatives that will enable local communities to deal effectively with the problems of young people in trouble at a point when it is still possible to prevent problems of the home, school, and the com-

munity from escalating to the point that they result in serious criminal activity.

As we emphasize prevention and rehabilitation, however, we must also realize that rehabilitation is not always possible. For hardened criminals and those who repeatedly engage in violent criminal activity this program provides a means of effectively removing them from society. Criminals prepared to use a firearm in the commission of a felony will not be allowed to remain at liberty to terrorize society. Those who sell heroin or morphine will not be left at liberty to repeatedly prey on our youth. It means an end to "turnstile" justice that enables these criminals to repeat their assaults on society again and again.

I will thoroughly study the full text of the President's message and the details of the legislative proposals. It is clear, however, that there are areas of agreement between our approaches to combating crime. It is equally clear that there are significant differences. I will vigorously pursue my efforts to convince the President that he should support the Juvenile Justice Act and assume a leadership role in this most vital area.

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[Extract from the Congressional Record, July 26, 1975]

By Mr. FONG (by request):

S. 2186. A bill to ban the importation, manufacture, sale, and transfer of Saturday night specials, to improve the effectiveness of the Gun Control Act of 1968, to ban possession, shipment, transportation, and receipt of all firearms by felons, and for other purposes. Referred to the Committee on the Judiciary.

Mr. FONG. Mr. President, at the request of the administration, I am today introducing a bill "to ban the importation, manufacture, sale and transfer of Saturday night specials, to improve the effectiveness of the Gun Control Act of 1968, to ban possession, shipment, transportation, and receipt of all firearms by felons, and for other purposes."

The question of Federal control of guns and especially the so-called Saturday night specials has been an issue of much debate and emotional reaction throughout the United States.

Saturday night specials, as my colleagues well know, are cheap, low-quality, easily concealed handguns.

These Saturday night specials have no legitimate sporting use nor any valid defense purpose.

This type of shoddy gun is of no value to sportsmen. Sportsmen use rifles, shotguns, and well-constructed handguns, but not the inaccurate Saturday night specials.

No one, and I specifically include myself in that group, wants to prevent sportsmen from pursuing their hobbies.

However, as President Ford pointed out in his crime message to Congress on June 19 of this year:

"Since 1960, although billions of dollars have been spent on law enforcement programs, the crime rate has more than doubled.

\* \* \* \* \*

"More significantly, the number of crimes involving threats of violence or actual violence has increased. And the number of violent crimes in which the perpetrator and the victim are strangers has also increased. A recent study indicates that approximately 65 percent of all violent crimes are committed against strangers.

"The personal and social toll that crime exacts from our citizens is enormous. In addition to the direct damage to victims of crime, violent crimes in our states and in our homes make fear pervasive."

Something must be done to control the weapons and especially the cheap handguns used to perpetrate these violent crimes.

I have, as far back as 1968, voted for a finding that destructive devices—such as bazookas and mortars—machineguns and short-barreled guns and rifles were not appropriate for sport, recreation or personal defense and that, therefore, their flow in interstate commerce should be regulated.

I have previously supported legislation to require Federal or State registration of all firearms and a license to possess them. I also voted for proposals to prohibit an applicant from receiving a license to ship firearms or ammunition in interstate or foreign commerce when his place of business was



located in a State which did not have in effect a firearms control law which met Federal minimum standards.

It is my position that we need legislation placing strong controls on improper and illegal gun use and those laws must be strictly, quickly, and uniformly enforced. To the extent that is possible under article I, section 8 of the Constitution and within the constraints of the 10th amendment reserving to the States the powers not delegated to the United States, the Federal Government must and should do everything possible to reduce crime and as President Ford indicated, "contribute to a safer America."

The bill I am today introducing is a good starting point for such legislation.

This bill, so far as it goes, does provide additional safeguards not now in the law.

Dealers, who are defined as ammunition retailers, firearm dealers, gunsmiths or pawnbrokers would be prohibited to sell a handgun to a person who did not appear at the licensee's premises for purposes of clearly establishing his identity. The information is then to be forwarded to the chief law-enforcement officer where the transferee lives or will keep the gun, as well as to the FBI, so that a check can be made and reported to the transferor. The transferor must wait at least 14 days for this report before delivering the handgun. The purchaser's statement and the report of the enforcement officers must be retained by the dealer and are subject to inspection by the Treasury. This is a good provision since it permits a waiting period during which time the purchaser can be checked out.

Licensed manufacturers, licensed importers, licensed dealers or licensed collectors may not manufacture, assemble, sell or transfer a handgun, other than a curio or relic, in the United States unless the handgun model has been approved by the Secretary of the Treasury. Further, it would make it unlawful to sell or transfer an unapproved handgun by an individual who is not a licensee if he knows the handgun model has not been approved. This is good as it would prohibit Saturday night specials transactions.

Resales or transfers of handguns must be in accordance with Federal and State law and any applicable published ordinances. However, this is not applicable to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. See Sec. 922(f). This is good as it would by Federal statute prohibit sales in States and localities with strong gun control laws.

Purchase or receipt of more than two guns within a 30-day period is prohibited, unless with the prior approval of the Secretary of the Treasury. This is good as it would prevent multiple sales to persons who then redistribute the handguns unlawfully.

Additionally, the Secretary of the Treasury is given additional authority to deny a license unless he finds the person meets the age and criminal record requirements and had premises from which he conducts or intends to conduct the business and that the applicant is not prohibited by State or local law from conducting the business to which the license would apply and that he is likely to conduct the business in conformity with applicable law. The Secretary would have 90 days instead of 45 days to act on this application. This is a good tightening up provision.

Prosecution for commission of a felony where a firearm was carried or used could be had in a court of the United States, and, a prison term of 1 to 10 years for a first offense and 2 to 25 years for subsequent offenses to run consecutively after the term of imprisonment for the commission of the felony is also provided. Strict enforcement of such legislation hopefully would deter criminal action and if not, it would certainly protect society by removing the criminal from society for a longer and more certain term, since a suspended or probationary sentence is prohibited.

So, as my colleagues can see just from the points outlined, the Administration bill is indeed a very good starting point toward making America a safer place in which to live.

At the request of the Administration, I am also introducing an amendment to S. 1, the Criminal Justice Reform Act of 1975. This amendment would strengthen the penalties for criminal convictions involving the use of firearms.

Every effort must be made to discourage the use of firearms by criminals. Severe additional penalties in our Criminal Justice Reform Act where firearms are used would, in my opinion, hopefully deter the use of such firearms.

94TH CONGRESS  
1ST SESSION

# S. 2186

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## IN THE SENATE OF THE UNITED STATES

JULY 26 (legislative day, JULY 21), 1975

Mr. FONG (by request) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To ban the importation, manufacture, sale, and transfer of Saturday Night Specials, to improve the effectiveness of the Gun Control Act of 1968, to ban possession, shipment, transportation, and receipt of all firearms by felons, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That the Congress hereby finds and declares—

4               (a) that the traffic in cheap, low-quality, and easily  
5       concealable handguns, which are commonly known as  
6       Saturday Night Specials and which have no legitimate  
7       sporting or valid defensive purpose, constitutes a serious  
8       threat to general law enforcement, to the public safety,



1       and to the integrity of State and local firearms control  
2       laws;

3               (b) that the criminal misuse of these handguns is a  
4       significant factor in the prevalence of lawlessness and  
5       violent crime in the United States, thus contributing  
6       greatly to the Nation's law enforcement problems;

7               (c) that the existing ban on importation of Satur-  
8       day Night Specials has been effectively subverted by the  
9       importation of parts and the domestic assembly and man-  
10      ufacture of the weapons the Congress banned from im-  
11      portation; and

12              (d) that the absence of effective controls on do-  
13      mestic manufacture and sale of small, easily conceal-  
14      able, and cheap handguns known as Saturday Night  
15      Specials constitutes a major shortcoming in existing  
16      law, circumvents the purpose of the import restrictions  
17      of existing law, and makes possible commercial traffic  
18      among the States and within the States in cheap and  
19      deadly weapons which serve no sporting or valid de-  
20      fensive purpose and which threaten the physical safety  
21      and well-being of all Americans.

22      SEC. 2. The Congress further finds and declares:

23              (a) that the receipt or possession of firearms and  
24      ammunition by persons barred by Federal law from  
25      such receipt or possession constitutes:

1           (1) a burden on commerce within and among  
2           the States; and

3           (2) a threat to the domestic tranquility;

4           (b) that a person obtaining a Federal license to  
5           import, manufacture, or deal in firearms should be a  
6           bona fide importer, manufacturer, or dealer operating  
7           not only within the Federal laws but also within State  
8           and applicable local laws; and

9           (c) that the burden on commerce caused by illegal  
10          possession of handguns by felons and by persons barred  
11          from possession of handguns by Federal, State, or local  
12          law requires an increased obligation on the transferor  
13          of handguns and on law enforcement agencies to assure  
14          that there is no sale or transfer of a handgun to a  
15          person not authorized to possess it.

16          SEC. 3. Section 842 of title 18, United States Code,  
17          is amended:

18           (a) by deleting "(as defined in section 4761 of  
19           the Internal Revenue Code of 1954)" in subsection

20           (d) (5);

21           (b) by deleting "drug (as defined in section 201  
22           (v) of the Federal Food, Drug, and Cosmetic Act)"  
23           in subsection (d) (5) and inserting in lieu thereof  
24           "substance";

25           (c) by deleting "(as defined in section 4721 (a)

## 4

1 of the Internal Revenue Code of 1954) ; or” in sub-  
2 section (d) (5) and inserting in lieu thereof “as those  
3 terms are defined in section 102 of the Controlled Sub-  
4 stances Act (21 U.S.C. 802) ”;

5 (d) by deleting subsection (d) (6) and inserting in  
6 lieu thereof the following:

7 “(6) has been adjudicated as mentally incompetent  
8 or has been committed to a mental institution; or

9 “(7) being an alien, is illegally or unlawfully in  
10 the United States.”;

11 (e) by deleting “(as defined in section 4761 of  
12 the Internal Revenue Code of 1954)” in subsection  
13 (i) (3) ;

14 (f) by deleting “drug (as defined in section 201  
15 (v) of the Federal Food, Drug, and Cosmetic Act)” in  
16 subsection (i) (3) and inserting in lieu thereof “sub-  
17 stance”;

18 (g) by deleting “(as defined in section 4731 (a)  
19 of the Internal Revenue Code of 1954) ; or” in sub-  
20 section (i) (3) and inserting in lieu thereof “as those  
21 terms are defined in section 102 of the Controlled  
22 Substances Act (21 U.S.C. 802) ”; and

23 (h) by deleting subsection (i) (4) and inserting  
24 in lieu thereof the following:

## 5

1           “(4) who has been adjudicated as mentally incom-  
2           petent or has been committed to a mental institution; or

3           “(5) who, being an alien, is illegally or unlawfully  
4           in the United States;”.

5           SEC. 4. Section 843 of title 18, United States Code, is  
6           amended:

7           (a) by deleting “forty-five” in subsection (c) and  
8           inserting in lieu thereof “ninety”; and

9           (b) by amending subsections (d) and (e) to read  
10          as follows:

11          “(d) (1) The Secretary may revoke a license or permit  
12          issued under this chapter if the person holding the license  
13          or permit is ineligible to acquire explosive materials under  
14          section 842 (d).

15          “(2) A person who has a license or permit issued under  
16          this section and who violates a provision of this section or a  
17          rule or regulation prescribed by the Secretary under this  
18          chapter, shall be subject to a civil penalty, to be imposed by  
19          the Secretary, of up to \$10,000 for each violation, or to  
20          suspension or revocation of his license or permit, or to both  
21          the civil penalty and revocation or suspension. The Secretary  
22          may at any time compromise, mitigate, or remit such penal-  
23          ties. An action of the Secretary under this subsection is sub-

## 6

1 ject to review only as provided in subsection (e) of this  
2 section.

3       “(e) (1) Any person whose application is denied or  
4 whose license or permit is suspended or revoked or who is  
5 assessed a civil penalty shall receive a written notice from the  
6 Secretary stating the specific grounds upon which such  
7 denial, suspension, revocation, or civil penalty is based. Any  
8 notice of a suspension or revocation of a license or permit  
9 shall be given to the holder of such license or permit prior  
10 to or concurrent with the effective date of the suspension or  
11 revocation.

12       “(2) If the Secretary denies any application for, or  
13 suspends or revokes, a license, or permit, or assesses a civil  
14 penalty, he shall, upon request by the aggrieved party,  
15 promptly hold a hearing to review his denial, suspension,  
16 revocation, or assessment. In the case of a suspension or rev-  
17 ocation, the Secretary may upon a request of the holder stay  
18 the effective date of the suspension or revocation. A hearing  
19 under this section shall be at a location convenient to the  
20 aggrieved party. The Secretary shall give written notice of  
21 his decision to the aggrieved party within a reasonable time  
22 after the hearing. The aggrieved party may, within sixty  
23 days after receipt of the Secretary's written decision, file a  
24 petition with the United States court of appeals for the dis-  
25 trict in which he resides or has his principal place of business



## 7

1 for a judicial review of such denial, suspension, revocation,  
2 or assessment pursuant to sections 701 through 706 of title  
3 5, United States Code.”.

4 SEC. 5. Section 921 (a) of title 18, United States Code,  
5 is amended:

6 (a) by amending paragraph (11) to read as  
7 follows:

8 “(11) The term ‘dealer’ means any person who is (A)  
9 engaged in business as an ammunition retailer, (B) engaged  
10 in business as a gunsmith, (C) engaged in business as a  
11 firearms dealer, or (D) a pawnbroker. The term ‘licensed  
12 dealer’ means any dealer who is licensed under the provisions  
13 of this chapter.”;

14 (b) by redesignating paragraphs (12), (13),  
15 (14), (15), (16), (17), (18), (19), and (20) as  
16 paragraphs (19), (20), (21), (22), (23), (24),  
17 (25), (26), and (27), respectively; and

18 (c) by adding after paragraph (11) the following  
19 new paragraphs:

20 “(12) The term ‘ammunition retailer’ means any per-  
21 son who is not otherwise a dealer who is engaged in the  
22 business of selling ammunition at retail, other than ammuni-  
23 tion for destructive devices.

24 “(13) The term ‘gunsmith’ means any person who  
25 is not otherwise a dealer who is engaged in the business

1 of repairing firearms or making or fitting special barrels,  
2 stocks, or trigger mechanisms to firearms.

3 “(14) The term ‘firearms dealer’ means any person  
4 who is engaged in the business of selling firearms or ammuni-  
5 tion at wholesale or retail.

6 “(15) The term ‘handgun’ means a firearm which has  
7 a short stock and which is designed to be held and fired by  
8 the use of a single hand. The term also includes any com-  
9 bination of parts from which a handgun can be assembled.

10 “(16) The term ‘handgun model’ means a particular  
11 design and specification of a handgun.

12 “(17) The term ‘pistol’ means a handgun having a  
13 chamber or chambers as an integral part or parts of, or  
14 permanently alined with, the bore or bores.

15 “(18) The term ‘revolver’ means a handgun having  
16 a breechloading chambered cylinder so arranged that the  
17 cocking of the hammer or movement of the trigger rotates  
18 the cylinder to bring the next cartridge in line with the  
19 barrel for firing.”.

20 SEC. 6. Section 922 of title 18, United States Code, is  
21 amended:

22 (a) by adding after the words “replacement fire-  
23 arm” in subsection (a) (2) (A) the words “, other  
24 than a handgun of a model which has not been approved  
25 by the Secretary under section 923 (k),”;

## 9

1 (b) by adding after the words "mailing a firearm"  
2 in subsection (a) (2) (A) the words ", other than a  
3 handgun of a model which has not been approved by  
4 the Secretary under section 923 (k) ,";

5 (c) by deleting "resides in any State other than  
6 that in which the transferor resides (or other than that"  
7 in subsection (a) (5) and inserting in lieu thereof "does  
8 not reside in the State in which the transferor resides  
9 (or does not reside in the State";

10 (d) by adding after the words "rental of a firearm"  
11 in subsection (a) (5) the words ", except a handgun  
12 of a model which has not been approved by the Secretary  
13 under section 923 (k) of this chapter,";

14 (e) by adding after the words "loan or rental of a  
15 firearm" in subsection (b) (3) (B) the words ", other  
16 than a handgun of a model which has not been approved  
17 by the Secretary under section 923 (k) ,";

18 (f) by adding after the words "may sell a fire-  
19 arm" in subsection (c) the words ", other than a  
20 handgun,";

21 (g) by deleting ", in the case of any firearm other  
22 than a shotgun or a rifle, I am twenty-one years  
23 or more of age, or that, in the case of a shotgun or a  
24 rifle," in subsection (c) (1) ;

25 (h) by repealing subsections (d) and (h) ;

## 10

1           (i) by redesignating subsections (e) and (f) as  
2       subsections (m) and (n), respectively, by redesignat-  
3       ing subsections (i), (j), (k), (l), and (m) as sub-  
4       sections (o), (p), (q), (r), and (s), respectively,  
5       and by redesignating subsection (g) as subsection (h) ;  
6       (j) by adding after subsection (c) the following  
7       new subsections:

8       “(d) (1) It shall be unlawful for any licensed manu-  
9       facturer, licensed importer, licensed dealer, or licensed col-  
10      lector to manufacture, assemble, sell, or transfer any hand-  
11      gun, other than a curio or relic, in the United States unless  
12      the handgun model has been approved by the Secretary  
13      pursuant to section 923 (k) of this chapter.

14      “(2) It shall be unlawful for any person other than a  
15      licensed manufacturer, licensed importer, licensed dealer,  
16      or licensed collector to sell or transfer any handgun, other  
17      than a curio or relic, in the United States knowing that the  
18      handgun is a model which has not been approved by the  
19      Secretary pursuant to section 923 (k) of this chapter.

20      “(e) It shall be unlawful for any person to modify a  
21      handgun if the handgun model was previously approved by  
22      the Secretary for manufacture, assembly, importation, sale,  
23      or transfer if as a result of the modification the handgun  
24      no longer meets the standards of a handgun model approved  
25      under section 923 (k) of this chapter.

1       “(f) It shall be unlawful for any person who purchases  
2 or receives a handgun with the purpose of selling or trans-  
3 ferring the handgun to another person to sell or transfer  
4 the handgun to another person unless he knows or has rea-  
5 sonable cause to believe that purchase and possession of  
6 the handgun would be in accordance with Federal law and  
7 with State law and any published ordinance applicable at  
8 the place of sale, delivery, or other disposition. This sub-  
9 section shall not apply to transactions between licensed  
10 importers, licensed manufacturers, licensed dealers, and li-  
11 censed collectors.

12       “(g) In any case not otherwise prohibited by this  
13 chapter, a licensed importer, licensed manufacturer, or li-  
14 censed dealer may sell a handgun to a person only if the  
15 person appears in person at the licensee’s business premises  
16 (other than a licensed importer, manufacturer, or dealer)  
17 and, in order to assure that purchase and possession of the  
18 handgun by the transferee would be in accordance with  
19 Federal law and with State law and any published ordinance  
20 applicable at the place of sale, delivery, or other disposition,  
21 only if:

22       “(1) the transferee submits to the transferor a  
23 sworn statement prescribed in regulations to be promul-  
24 gated by the Secretary setting forth:



1           “(A) his name, his residence, and the place  
2           where the handgun will be kept; and

3           “(B) that his receipt of the handgun will not  
4           be in violation of Federal law, or of a State law or  
5           any published ordinance of the place of his residence  
6           or, if the handgun will be kept at a place other than  
7           his place of residence, of the place where the hand-  
8           gun will be kept, and that he does not intend to  
9           resell or transfer the handgun to a person who is  
10          barred from owning or possessing it by Federal or  
11          State law or any published ordinance of the place of  
12          the latter person’s residence or other place where  
13          the handgun would be kept.

14          The sworn statement shall also include the true title,  
15          name, and address of the chief law enforcement officer  
16          of the place of the transferee’s residence and the place  
17          where the handgun will be kept. If a State law or pub-  
18          lished ordinance applicable at the place of the transferee’s  
19          residence or the place where the handgun will be kept  
20          requires that a person must have a permit or license to  
21          own, possess, or purchase the handgun, a true copy of  
22          such permit or license shall be attached to the sworn  
23          statement. Any other information required to be sup-  
24          plied to own, possess, or acquire a handgun under such

1 State law or published ordinance shall also be attached  
2 to the sworn statement;

3 “(2) the transferee provides identification sufficient  
4 to establish, under rules and regulations of the Secretary,  
5 reasonable grounds to believe that the transferee is the  
6 person he claims to be, and that his residence is at the  
7 address stated in the transferee’s sworn statement;

8 “(3) the transferor has, prior to delivery of the  
9 handgun, forwarded immediately by registered or certi-  
10 fied mail (return receipt requested), to the chief law  
11 enforcement officer of the transferee’s place of residence  
12 and to the chief law enforcement officer of any other  
13 place where the transferee indicates in his sworn state-  
14 ment that he will keep the handgun, a copy of the sworn  
15 statement, in a form prescribed by the Secretary, for  
16 purposes of notifying such officer of the proposed transfer  
17 and of permitting such officer:

18 “(A) to check the record and identity of the  
19 transferee, to determine whether ownership or pos-  
20 session of the handgun by the transferee would be a  
21 violation of a State law or any published ordinance  
22 of the place of the transferee’s residence or the  
23 place where the handgun will be kept;

24 “(B) to request a name check by the Federal

1 Bureau of Investigation which shall be sent to the  
2 chief law enforcement officer within five working  
3 days of the Bureau's receipt of the request; and

4 " (C) to report to the transferor the results of  
5 such check, determination, and request;

6 " (4) the transferor has received a return receipt  
7 evidencing delivery of the statement or has had the state-  
8 ment returned due to the refusal of the named addressee  
9 to accept such letter in accordance with United States  
10 Postal Service regulations;

11 " (5) the transferor has received reports from the  
12 chief law enforcement officer of the transferee's place of  
13 residence and of the other place where the transferee  
14 has indicated that the handgun will be kept, and the  
15 reports do not indicate that the transferee is prohibited  
16 from shipping, possessing, transporting, or receiving a  
17 handgun under subsection (h) or (i) of this section, that  
18 the transferee is less than twenty-one years of age, or  
19 that the purchase or possession of a handgun by the  
20 transferee would be a violation of a State law or any  
21 published ordinance applicable at the place of residence  
22 or place where the handgun will be kept; and

23 " (6) if the transferor has not received the reports  
24 from the law enforcement officers, the transferor has  
25 delayed delivery of the handgun for a period of at least

1       fourteen days from the date the sworn statement required  
2       under paragraph (1) of this subsection was forwarded  
3       as prescribed in paragraph (3) of this subsection.

4   A copy of the sworn statement and a copy of the notification  
5   or notifications to the chief law enforcement officer or  
6   officers, together with the reports received from such officer  
7   or officers under paragraph (3) of this subsection shall be  
8   retained by the licensee as a part of the records required to  
9   be kept under section 923 (g).”;

10       (k) by deleting “drug (as defined in section 201  
11       (v) of the Federal Food, Drug, and Cosmetic Act)” in  
12       subsection (h) (3) and inserting in lieu thereof “sub-  
13       stance”;

14       (1) by deleting “(as defined in section 4731 (a)  
15       of the Internal Revenue Code of 1954) ; or” in subsec-  
16       tion (h) (3) and inserting in lieu thereof “as those terms  
17       are defined in section 102 of the Controlled Substances  
18       Act (21 U.S.C. 802) ;”;

19       (m) by amending subsection (h) (4) to read as  
20       follows:

21       “(4) who has been adjudicated as mentally in-  
22       competent or has been committed to a mental institution;  
23       or”;

24       (n) by deleting “to ship or transport any firearm or

1       ammunition in interstate or foreign commerce” in sub-  
2       section (h) and inserting in lieu thereof:

3               “(5) who, being an alien, is illegally or unlawfully  
4       in the United States;  
5       to possess, ship, transport, or receive any firearm or  
6       ammunition.”;

7               (o) by adding after subsection (h) the following  
8       new subsections:

9               “(i) It shall be unlawful for any person who, while  
10      being employed by a person who is prohibited from possess-  
11      ing, shipping, transporting, or receiving firearms or ammuni-  
12      tion under subsection (h), and who, knowing or having  
13      reason to believe his employer falls within one of the classi-  
14      fications enumerated in subsection (h), in the course of  
15      such employment to possess any firearm or ammunition.

16              “(j) It shall be unlawful for any person to sell or other-  
17      wise dispose of any firearm or ammunition to any person  
18      unless he knows or has reasonable cause to believe that such  
19      person is not prohibited from possessing, shipping, transport-  
20      ing, or receiving a firearm or ammunition under subsection  
21      (h) or (i) of this section. This subsection shall not apply  
22      with respect to the sale or disposition of a firearm or ammuni-  
23      tion to a licensed importer, licensed manufacturer, licensed  
24      dealer, or licensed collector who pursuant to subsection (b)



1 of section 925 of this chapter is not precluded from dealing  
2 in firearms or ammunition.

3 “(k) It shall be unlawful for any person to ship or  
4 transport any firearm or ammunition in interstate or foreign  
5 commerce if such shipment or transportation is in violation  
6 of a State law in a place to which or through which the fire-  
7 arm was shipped or transported or of a published ordinance  
8 applicable at the place of sale, delivery, or other disposition.

9 (l) (1) It shall be unlawful for any licensed importer,  
10 licensed manufacturer, licensed dealer, or licensed collector to  
11 sell or transfer two or more handguns to the same person,  
12 other than another licensed importer, licensed manufac-  
13 turer, licensed dealer, or licensed collector, in a period of  
14 thirty days or less, unless the transferee has obtained prior  
15 approval of the purchase from the Secretary, pursuant to  
16 regulations promulgated by the Secretary.

17 “(2) It shall be unlawful for any person, other than a  
18 licensed importer, licensed manufacturer, licensed dealer, or  
19 licensed collector to purchase or receive two or more hand-  
20 guns in a period of thirty days or less from one or more  
21 licensed importers, licensed manufacturers, licensed dealers,  
22 or licensed collectors or from such a licensee and from a  
23 person or persons who are not such licensees, unless the  
24 person has obtained prior approval of the purchase from the

1 Secretary pursuant to regulations promulgated by the Secre-  
2 tary. It shall be unlawful for any person, other than a  
3 licensed importer, licensed manufacturer, licensed dealer, or  
4 licensed collector to purchase or receive two or more hand-  
5 guns in a period of thirty days or less from a person or  
6 persons other than a licensed importer, licensed manufac-  
7 turer, licensed dealer, or licensed collector unless the person  
8 notifies the Secretary of such purchase or receipt within  
9 thirty days after the purchase or receipt.”.

10 SEC. 7. Section 923 of title 18, United States Code, is  
11 amended:

12 (a) by deleting subsections (a) (1) (B) and (C)  
13 and inserting in lieu thereof the following:

14 “(B) of firearms other than destructive devices or  
15 handguns, a fee of \$250 per year;

16 “(C) of firearms, including handguns, but not in-  
17 cluding destructive devices, a fee of \$500 per year; or

18 “(D) of ammunition for firearms other than ammu-  
19 nition for destructive devices, a fee of \$250 per year.”;

20 (b) by deleting the word “or” at the end of sub-  
21 section (a) (2) (A) ;

22 (c) by deleting subsection (a) (2) (B) and insert-  
23 ing in lieu thereof the following:

24 “(B) of firearms other than destructive devices or

1 handguns or of ammunition for firearms other than  
2 destructive devices, a fee of \$250 per year; or

3 “(C) of firearms, including handguns, but not in-  
4 cluding destructive devices, a fee of \$500 per year.”;

5 (d) by deleting subsections (a) (3) (B) and (C)  
6 and inserting in lieu thereof the following:

7 “(B) who is a pawnbroker dealing in firearms other  
8 than destructive devices or handguns, or ammunition  
9 for firearms other than destructive devices, a fee of \$250  
10 per year;

11 “(C) who is a pawnbroker dealing in firearms,  
12 including handguns, but not including destructive devices,  
13 a fee of \$500;

14 “(D) who is not a dealer in destructive devices or  
15 handguns, a pawnbroker, a gunsmith, or an ammunition  
16 retailer in other than ammunition for destructive devices,  
17 a fee of \$100 per year;

18 “(E) in firearms, including handguns, but not in-  
19 cluding destructive devices, \$200 per year;

20 “(F) who is a gunsmith, a fee of \$50 per year; or

21 “(G) who is an ammunition retailer in other than  
22 ammunition for destructive devices, a fee of \$25 per  
23 year.”

24 (e) by deleting the language in subsection (d)

1       (1) which precedes subparagraph (A) and inserting in  
2       lieu thereof the following:

3       “Any application submitted under subsection (a)  
4       or (B) of this section shall be approved if the Secretary  
5       finds that—”;

6       (f) by amending subsection (d) (1) (B) to read  
7       as follows:

8       “(B) the applicant (including, in the case of a cor-  
9       poration, partnership, or association, any individual pos-  
10      sessing, directly or indirectly, the power to direct or  
11      cause the direction of the management and policies of  
12      the corporation, partnership, or association) :

13       “(i) is not prohibited from possessing, trans-  
14      porting, shipping, or receiving firearms or ammuni-  
15      tion under section 922 (h) or (i) of this chapter;

16       “(ii) is not prohibited by the law of the State  
17      or by relevant ordinance of his place of business  
18      from conducting the business of transporting, ship-  
19      ping, receiving, selling, transferring, owning, or pos-  
20      sessing the firearms or ammunition to which the li-  
21      cense would apply; and

22       “(iii) is, by reason of his business experience,  
23      financial standing, or trade connections, likely to  
24      commence the business for which the license is ap-  
25      plied within a reasonable period of time and to

1 maintain such business in conformity with Federal  
2 law and with State and relevant local law applicable  
3 at his place of business;”;

4 (g) by deleting “forty-five” in subsection (d) (2)  
5 and inserting in lieu thereof “ninety”;

6 (h) by amending subsections (e) and (f) to read  
7 as follows:

8 “(e) The Secretary may, after notice and opportunity  
9 for hearing, suspend or revoke any license issued under this  
10 section, or may subject the licensee to a civil penalty of up  
11 to \$10,000 per violation, if the holder of such license has  
12 violated any provision of this chapter or any rule or regu-  
13 lation prescribed by the Secretary under this chapter. The  
14 Secretary may at any time compromise, mitigate, or remit  
15 the liability with respect to such violation. The Secretary’s  
16 action under this subsection may be reviewed only as pro-  
17 vided in subsection (f) of this section.

18 “(f) (1) Any person whose application for a license  
19 is denied and any holder of a license which is suspended or  
20 revoked or who is assessed a civil penalty shall receive a  
21 written notice from the Secretary stating specifically the  
22 grounds upon which the application was denied or upon  
23 which the license was suspended or revoked or the civil  
24 penalty assessed. Any notice of a suspension or revocation



1 of a license shall be given to the holder of such license before  
2 the effective date of the suspension or revocation.

3 “(2) If the Secretary denies an application for, or  
4 suspends or revokes a license, or assesses a civil penalty, he  
5 shall, upon request by the aggrieved party, promptly hold a  
6 hearing to review his denial, suspension, or revocation, or  
7 assessment. In the case of a suspension or revocation of a  
8 license, the Secretary shall upon the request of the holder  
9 of the license stay the effective date of the suspension or  
10 revocation. A hearing held under this paragraph shall be  
11 held at a location convenient to the aggrieved party.

12 “(3) If after a hearing held under paragraph (2) the  
13 Secretary decides not to reverse his decision to deny an ap-  
14 plication or suspend or revoke a license or assess a civil pen-  
15 alty, the Secretary shall give notice of his decision to the  
16 aggrieved party. The aggrieved party may at any time with-  
17 in sixty days after the date notice was given under this  
18 paragraph file a petition with the United States district court  
19 for the district in which he resides or has his principal place  
20 of business for a judicial review of such denial, suspension,  
21 revocation, or assessment. In a proceeding conducted under  
22 this subsection, the court may consider any evidence sub-  
23 mitted by the parties to the proceeding. If the court decides  
24 that the Secretary was not authorized to deny the applica-  
25 tion or to suspend or revoke the license or to assess the civil

1 assembly, importation, sale, or transfer any handgun model  
2 action as may be necessary to comply with the judgment of  
3 the court.”;

4 (i) by adding the following new subsections after  
5 subsection (j) :

6 “(k) The Secretary shall approve for manufacture, as-  
7 sembly, importation, sale, or transfer any handgun model  
8 if he has caused to be evaluated and tested representative  
9 samples of the handgun model and has found that such  
10 handgun model is particularly suitable for sporting or valid  
11 defensive purposes and that—

12 “(1) in the case of a pistol, the handgun model—

13 “(A) has a positive manually operated safety  
14 device; and

15 “(B) has a combined length and height of not  
16 less than ten inches with the height (measured  
17 from the top of the weapon, excluding sights, at a  
18 right-angle measurement to the line of the bore, to  
19 the bottom of the frame, excluding magazine exten-  
20 sions or releases) being at least four inches and the  
21 length (measured from the muzzle, parallel to the  
22 line of the bore, to the back of the part of the weap-  
23 on that is furthest to the rear of the weapon) being  
24 at least six inches; and

1                   “(C) attains a total of at least 85 points under  
2           the following criteria:

3                   “(i) Overall length: 1 point for each one-  
4           fourth inch over six inches;

5                   “(ii) Frame Construction: (a) 25 points  
6           if investment cast steel or forged steel, (b)  
7           30 points if investment cast, high tensile  
8           strength alloy or forged high tensile strength  
9           alloy;

10                  “(iii) Weight: 1 point for each ounce,  
11           with the pistol unloaded and the magazine in  
12           place;

13                  “(iv) Caliber: (a) zero point if the pistol  
14           accepts only .22 caliber short or .25 ACP  
15           caliber ammunition, (b) 3 points if the pistol  
16           accepts either .22 caliber long rifle ammunition  
17           or any ammunition within the range delimited  
18           by 7.65 millimeter and .380 caliber automatic,  
19           (c) 10 points if the pistol accepts 9 millimeter  
20           parabellum ammunition or ammunition of an  
21           equivalent or greater projectile size or power;

22                  “(v) Safety features: (a) 5 points if the  
23           pistol has a locked breech mechanism, (b) 5  
24           points if the pistol has a loaded chamber indica-  
25           tor, (c) 5 points if the pistol has a cocked posi-

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tion indicator, (d) 5 points if the pistol has a grip safety, (e) 5 points if the pistol has a magazine safety, (f) 10 points if the pistol has a firing pin block or lock;

“(vi) Other features: (a) 1 point if the pistol has a contoured magazine extension, (b) 3 points if the pistol has a slide hold-open device; and

“(vii) Miscellaneous equipment: (a) 3 points if the pistol has an external hammer, (b) 10 points if the pistol has a double action firing mechanism, (c) 5 points if the pistol has a drift adjustable sight, (d) 10 points if the pistol has a screw adjustable windage and elevation sight, (e) 5 points if the pistol has target grips, (f) 3 points if the pistol has a target trigger;

“(2) in the case of a revolver, the handgun model:

“(A) has an overall frame (with conventional grips) length of four and one-half inches (measured from the end of the frame nearest the muzzle, parallel to the line of the bore to the back of the part of the weapon that is furthest to the rear of the weapon);

“(B) has a barrel length (measured from the

1 muzzle to the cylinder face) of at least four inches;  
2 and

3 “(C) has a safety device which, either (i) by  
4 automatic operation in the case of a double action  
5 firing mechanism, or (ii) by manual operation in  
6 the case of a single action firing mechanism, causes  
7 the hammer to retract to a point where the firing  
8 pin does not rest upon the primer of the cartridge,  
9 and which, once activated, except for a used hand-  
10 gun, is capable of withstanding the impact of a  
11 weight, equal to the weight of the revolver, dropped  
12 a total of five times from a height of thirty-six inches  
13 above the rear of the hammer spur onto the rear of  
14 the hammer spur with the revolver in a position such  
15 that the line of the barrel is perpendicular to the  
16 place of the horizon; and

17 “(D) attains a total of at least 60 points under  
18 the following criteria:

19 “(i) Barrel length (measured from the  
20 muzzle to the cylinder face): one-half point  
21 for each one-half inch that the barrel is longer  
22 than four inches;

23 “(ii) Frame construction: (a) 25 points  
24 if investment cast steel or forged steel, (b) 30



1 points if investment cast, high tensile strength  
2 alloy or forged high tensile strength alloy;

3 “(iii) Weight: 1 point for each ounce  
4 with the revolver unloaded;

5 “(iv) Caliber: (a) zero points if the  
6 revolver accepts ammunition within the range  
7 delimited by 4 millimeter and .25 caliber ACP  
8 other than .22 caliber long rifle ammunition,  
9 (b) 3 points if the revolver accepts .22 caliber  
10 long rifle ammunition or ammunition within the  
11 range delimited by .30 caliber and .38 caliber  
12 S&W, (c) 4 points if the revolver accepts .38  
13 caliber special ammunition, (d) 5 points if the  
14 revolver accepts .357 magnum ammunition or  
15 ammunition of an equivalent or greater projectile  
16 size or power;

17 “(v) Safety features: 3 points if the re-  
18 volver has a grip safety;

19 “(vi) Other features: (a) 2 points if the  
20 revolver has a front supported or shrouded ejec-  
21 tor rod, (b) 5 points if the revolver has a rifled  
22 portion of the barrel threaded to or integral to  
23 the frame or strap component, (c) 2 points if  
24 the revolver has a retracting firing pin, (d) 2

1 points if the revolver has a steel recoil plate,  
2 (e) 5 points if the double action revolver has  
3 a crane mounted cylinder or rear latch top  
4 break, (f) 5 points if the single action revolver  
5 has a spring-loaded ejector assembly and a load-  
6 ing gate; and

7 “(vii) Miscellaneous equipment: (a) 2  
8 points if the revolver has a drift adjustable sight,  
9 (b) 5 points if the revolver has a screw adjust-  
10 able windage or elevation sight, (c) 7 points if  
11 the revolver has a screw adjustable windage and  
12 elevation sight, (d) 4 points if the revolver has  
13 target grips, (e) 2 points if the revolver has a  
14 target trigger, (f) 2 points if the revolver has a  
15 target hammer.

16 “(1) (1) The Secretary shall give written notification of  
17 the results of evaluation and testing conducted pursuant to  
18 subsection (k) of this section to the licensed manufacturer,  
19 licensed importer, licensed dealer, or licensed collector sub-  
20 mitting samples of a handgun model for such evaluation and  
21 testing. If any handgun model fails to meet the standards for  
22 approval, the Secretary’s notification shall state specifically  
23 the reasons for such finding.

24 “(2) Any licensed manufacturer, licensed importer,  
25 licensed dealer, or licensed collector submitting to the Secre-

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1 tary for testing a handgun model which is subsequently found  
2 not in compliance with relevant standards shall have ten days  
3 from receipt of notification of noncompliance within which to  
4 submit in writing specific objections to such findings and a  
5 request for retesting such model, together with justification  
6 therefor. Upon receipt of such a request the Secretary shall  
7 promptly arrange for retesting and thereafter notify the  
8 aggrieved party of the results, if he determines sufficient  
9 justification for retesting exists. Should he determine that  
10 retesting is not warranted, the Secretary shall promptly  
11 notify the aggrieved party as to such determination. In the  
12 event that upon retesting the Secretary's finding remains  
13 adverse, or that the Secretary finds retesting is not war-  
14 ranted, the aggrieved party may within sixty days after the  
15 date of the Secretary's notice of such finding file a petition in  
16 the United States district court in the district in which the  
17 aggrieved party resides or has his principal place of business  
18 in order to obtain judicial review of such finding. Such review  
19 shall be in accordance with the provisions of section 706 of  
20 title 5, United States Code.

21 “(3) The Secretary shall publish in the Federal Reg-  
22 ister at least semiannually a list of handgun models which  
23 have been tested and the results of those tests. Handgun  
24 models:

1           “(A) not in manufacture on or after the effective  
2       date of this subsection; and

3           “(B) which have not been tested or for which the  
4       test results have not been published;

5       shall be deemed to be approved under section 923 (k) of this  
6       chapter until such time as notice of their disapproval has  
7       been published in the Federal Register. The list shall also  
8       be included with the published ordinances required under  
9       section 921 (a) (26) to be furnished to each licensee under  
10      this chapter.”.

11      SEC. 8. Section 924 of title 18, United States Code, is  
12      amended:

13           (a) by adding after the words “violates any pro-  
14      vision of this chapter” in the first sentence of subsection

15           (a) the words “, other than subsection (j) of section  
16      922,”;

17           (b) by adding the following at the end of subsec-  
18      tion (a): “Whoever violates section 922 (j) of this  
19      chapter shall be fined not more than \$1,000, or im-  
20      prisoned not more than one year, or both.”; and

21           (c) by amending subsection (c) to read as follows:

22           “(c) Whoever—

23           “(1) uses a firearm to commit any felony for which  
24      he may be prosecuted in a court of the United States, or

25           “(2) carries a firearm during the commission of

1       any felony for which he may be prosecuted in a court  
2       of the United States,  
3       shall, in addition to the punishment provided for the com-  
4       mission of such felony, be sentenced to a term of imprison-  
5       ment of not less than one year nor more than ten years in  
6       the case of the first offense, and to a term of imprisonment  
7       of not less than two nor more than twenty-five years for a  
8       second or subsequent offense. Notwithstanding any other  
9       provision of law, the court shall not suspend the sentence of  
10      such person or give him a probationary sentence, nor shall  
11      the term of imprisonment imposed under this subsection  
12      run concurrently with any term of imprisonment imposed for  
13      the commission of such felony.”.

14      SEC. 9. Section 925 of title 18, United States Code is  
15      amended:

16           (a) by adding after the word “firearms” in sub-  
17      section (a) (2) the words “, other than a handgun of a  
18      model which has not been approved by the Secretary  
19      of the Treasury pursuant to section 923 (k) of this  
20      chapter,”;

21           (b) by adding after the words “may receive a  
22      firearm” in subsection (a) (3) the words “, other than  
23      a handgun of a model which has not been approved by  
24      the Secretary of the Treasury pursuant to section 923  
25      (k) of this chapter,”;



1           (c) by adding after the words “of any firearm” in  
2       subsection (a) (4) the words “, other than a handgun  
3       of a model which has not been approved by the Secretary  
4       of the Treasury pursuant to section 923 (k) of this  
5       chapter,”;

6           (d) by designating existing subsection “(c)” as  
7       subsection “(c) (1)” and adding a new paragraph to  
8       subsection (c) as follows:

9       “(2) Any person who, having been adjudicated as men-  
10      tally incompetent, or who, having been committed to a  
11      mental institution, subsequently has been adjudicated by a  
12      court or other lawful authority to have been restored to men-  
13      tal competency, if such court or other lawful authority spe-  
14      cifically finds that the person is no longer suffering from a  
15      mental disorder and that the possession of a firearm by the  
16      person would not pose a danger to the person or to the per-  
17      son of another, shall be relieved from the disabilities imposed  
18      by this chapter with respect to the acquisition, receipt, trans-  
19      fer, shipment, or possession of firearms incurred because of  
20      such adjudication or commitment.”;

21           (e) by adding after the words “National Firearms  
22      Act” in subsection (c) (1) the words “or of a State or  
23      local law which relates to the importation, manufacture,  
24      sale, or transfer, of a firearm”; and

1 (f) by amending subsection (d) (3) to read as  
2 follows:

3 “(3) is of a type that does not fall within the defi-  
4 nition of a firearm as defined in section 5845 (a) of the  
5 Internal Revenue Code of 1954; is not a surplus military  
6 firearm; is generally recognized as particularly suitable  
7 for sporting purposes; and, if a handgun, the model has  
8 been approved by the Secretary pursuant to section 923  
9 (k) of this chapter; or”.

10 SEC. 10. Section 926 of title 18, United States Code, is  
11 amended:

12 (a) by deleting “and” at the end of paragraph (1) ;

13 (b) by deleting the period at the end of paragraph  
14 (2) and inserting in lieu thereof “; and”;

15 (c) by adding after paragraph (2) the following  
16 new paragraph:

17 “(3) regulations precluding multiple sales or trans-  
18 fers of handguns under section 922 (1) to persons who  
19 do not demonstrate to the satisfaction of the Secretary  
20 in a transaction involving a licensed manufacturer,  
21 licensed importer, licensed dealer, or licensed collector,  
22 that such purchase or transfer is for lawful purposes, as  
23 defined in the regulations, and regulations concerning  
24 the notice required under section 922 (1) (2).”.

1           (d) by designating the existing section as subsec-  
2           tion “(a)” and by adding a new subsection (b) as  
3           follows:

4           “(b) Any officer or employee of the Bureau of Alcohol,  
5           Tobacco, and Firearms who is designated by the Secretary  
6           to carry out the provisions of this chapter is authorized to  
7           administer such oaths or affirmations as may be necessary  
8           for the enforcement of this chapter and any other provision  
9           of law or regulation administered by the Bureau.”.

10          SEC. 11. Title VII of the Omnibus Crime Control and  
11          Safe Streets Act of 1968 (18 U.S.C. appendix 1202-1203)  
12          is hereby repealed.

13          SEC. 12. Section 1715 of title 18, United States Code,  
14          is amended:

15               (a) by adding after the words “Such articles” in  
16               the second sentence the words “, other than handguns  
17               whose transfer is restricted under section 922 (d),”; and

18               (b) by adding after the second sentence the follow-  
19               ing new sentence: “The Postal Service shall promulgate  
20               regulations, subject to approval of the Secretary of the  
21               Treasury, consistent with section 922 (d) of this title,  
22               concerning conveyance in the mails of handguns subject  
23               to that section for the United States or any department  
24               or agency thereof, or to any State, department, agency  
25               or political subdivision thereof.”.

1        SEC. 13. This Act shall become effective ninety days  
2 after the date of enactment, except that:

3            (a) the amendments to section 922 (a) (2) (A)  
4 shall not preclude the return within thirty days of the  
5 effective date to the person from whom it was received  
6 of a handgun of a model not approved by the Secretary  
7 under section 923 (k) which was transferred to the  
8 licensed importer, licensed manufacturer, licensed dealer,  
9 or licensed collector before the effective date of the Act;

10          (b) section 5 (i) shall become effective on the date  
11 of enactment;

12          (c) a valid license issued pursuant to section 923  
13 of title 18, United States Code, shall be valid until it  
14 expires according to its terms unless it is sooner sus-  
15 pended, revoked or terminated pursuant to applicable  
16 provisions of law; and

17          (d) the first publication of the list required under  
18 section 923 (1) (3) shall be on or before the date of  
19 expiration of the sixty-day period following the date of  
20 enactment.

**Department of the TREASURY**

**NEWS**

**BUREAU OF ALCOHOL, TOBACCO & FIREARMS**  
Washington, D.C. 20226

202/961-7268



ATF Fact Sheet

January 1976

Firearms Licensing as Proposed in 1975  
Legislation Requested by President Ford

Licensing provisions for manufacturers, importers and dealers in firearms and ammunition are incorporated in companion bills introduced in the 94th Congress, in the Senate by Mr. Fong (S. 2186) and in the House of Representatives by Mr. McClory (H.R. 9022).

#### Licensees Today

Now under ATF regulation are some 160,000 dealers in firearms and ammunition, and almost 800 firearms manufacturers and importers. Many of these licensees are not engaged in a bona fide firearms business, and have obtained a license primarily to buy firearms at wholesale or in interstate commerce.

#### Key Provisions of Proposed New Law

The proposed new law is designed to ensure:

(a) That a firearms licensee is qualified to engage in the business for which his license would apply (not a felon, fugitive, drug addict, mental defective, etc.).

(b) That a licensee -- by reason of business experience, financial standing or trade connections -- is likely to commence his business within a reasonable period of time.

(more)



Key Provisions of Proposed New Law (cont.)

(c) That a licensee is likely to maintain his business in conformity with federal, state and local law.

(d) That a licensee is not prohibited by state law or local ordinance from engaging in the business for which his license would apply.

Investigation and Inspection

It is anticipated that, under the proposed new law, the number of licensees not engaged in a bona fide firearms business would be substantially reduced. Such a reduction would allow a more effective compliance program with respect to existing licensees, and permit a more intensified background investigation of licensee applicants.

Revised Fee Structure

The proposed new law would raise license fees generally. It would provide higher fees for licensees dealing in handguns as compared to their counterparts dealing exclusively in rifles and shotguns.

New license categories for "ammunition retailers" and "gunsmiths" would be created for persons desiring to engage in these limited activities. Both gunsmiths and ammunition retailers would be charged lower fees than licensees who sell firearms.

The ability to distinguish these limited dealers would foster a more efficient utilization of ATF resources.

(more)

-3-

<u>Licensing Fees</u>	<u>As Proposed In S. 2186 And H.R. 9022</u>	<u>1968 Gun Control Act</u>
<u>Manufacturers</u>		
Destructive devices or ammunition for destructive devices	\$1,000	\$1,000
Handguns, or firearms including handguns	\$500	\$50
+ Long guns	\$250	\$50
Ammunition for handguns and/or long guns	\$250	\$10
<u>Importers</u>		
Destructive devices, or ammunition for destructive devices	\$1,000	\$1,000
Handguns, or firearms including handguns	\$500	\$50
+ Long guns; or ammunition for handguns and/or long guns	\$250	\$50
<u>Dealers</u>		
Destructive devices, or ammunition for destructive devices	\$1,000	\$1,000
Pawnbrokers selling handguns, or firearms including handguns	\$500	\$25
+ Pawnbrokers selling long guns	\$250	\$25
Handguns, or firearms including handguns	\$200	\$10
+ Long guns	\$100	\$10
* Gunsmith	\$50	\$10
* Ammunition	\$25	\$10
+ More specific category		
* New category		

####

[From the Congressional Record, Sept. 26, 1975]

## GUN CONTROL—WRONG TARGET

Mr. McCLEURE. Mr. President, there have now been filed in both the House and the Senate over a score of antigun bills. They range from measures calling for outright confiscation—to Federal registration—to severe cutbacks on Federal firearms licenses—to the administration's bill which embraces a little of each of these. In none of these is there really any answer to crime. None of these proposals—if they ever became law—will make a dent in street crime. Many of us know this and so do a lot of Americans.

The criminal is the real instrument of violent crime. And the tide of crime—the terrible threat of violence to our people would not end until the prevailing attitude of those who refuse to reckon with that simple fact is changed. We are all, and we must all be concerned about criminal use of firearms and we must support legislation that will deal harshly with the criminal use of firearms—legislation that deals harshly with criminals. Mandatory sentencing is a step in the right direction, for the answer to the criminal use of firearms is not in prohibition but in changing the way in which we deal with the people who commit crime.

While those proposals that are getting the greatest attention are the most radical measures, the so-called moderate compromise proposals such as the President's "Saturday night special" bill are just as dangerous to our second amendment right. Such a bill is dangerous because it embraces the principle that it is the gun that is the cause of crime. The acceptance of this in any part is to succumb to faulty arguments, for plainly firearms are not the cause of crime, only an instrument of it.

Many argue that acceptance of a "Saturday night special" bill such as the President's should be a line of compromise. For me it is not. Congress has been giving away power at an alarming rate. Almost every law it enacts it instructs some Secretary or some agency head to write all the rules and regulations he might think are needed to implement that law. It is *carte blanche* power. That power give-away is especially threatening to the 40 or 50 million law-abiding American gun owners. If any such "Saturday night special" ban is enacted into law, I guarantee that it would not stop there. The bureaucracy will have the principle. No matter how well drafted the formula or the definition—no matter how artfully or carefully the legislation is written to protect the so-called sporting arms, the shooters, the hunters, the gun owners will have lost everything. They will lose because that law will give some agency authority to write the rules and regulations to carry it out. It doesn't matter which Secretary gets it—Treasury, Commerce, the Attorney General. The second amendment rights of all of us will hang on the whims, convictions and personal politics of one man. And if he believes as our present Attorney General does that the second amendment can indeed be infringed—then an army of youthful regulation writers will begin work—and by quantum leaps, we will see all rights to private firearms ownership lost. And they will be lost within the bureaucracy—and they will be lost on a "Saturday night special" bill such as that the President has proposed.

Mr. Neil Knox recently wrote an editorial which appears in the September-October issue of *Handloader Magazine* in which he takes a revealing look at the President's bill (S. 2186, H.R. 9022) on "Saturday Night Specials." I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## FORD GOOFS ON GUN BILL

President Ford apparently doesn't yet realize it, but he was politically sandbagged when he was taken into introducing his handgun bill. From the time in 1968 when President Lyndon Johnson introduced and impossible-to-pass registration and licensing bill in a deliberate, and successful, effort to draw attention away from his Administration's lack of tough anti-crime measures, "gun control" proposals by party leaders have been motivated primarily by pure politics, not any realistic belief that the proposals would have any effect upon crime rates. It's true in spades for "Saturday Night Special" legislation, for no one has any love for cheap, junk handguns; that would seemingly be the type of compromise gun bill that any politician could support without making anyone too mad. But "Saturday Night Special" bills also have been used as a second type of smokescreen, by

defining the SNS in a manner to prohibit handguns that are neither cheap, small, nor short-barreled. And that's the type of definition written into the President's bill, although the odds are that he doesn't know it.

But he wasn't sandbagged by his advisors, except possibly those from the Justice and Treasury Departments; he was sandbagged by his enemies in the press, who hammered the Administration for a gun bill, knowing full well that Ford wouldn't endorse any measure strong enough for them to editorially support. The object was to pressure the President into introducing a bill severe enough to raise the hackles of the gun lobby (that's you and me), yet so mild compared to their demands for prohibition or near-prohibition that they could crucify him for introducing a "milquetoast measure" (as the Washington Post called the Administration bill). And the President fell for it.

As the opposition correctly claims, the Administration bill is a political compromise, a mish-mash of features reflecting the disagreement among the President's advisors and his background in the Congress, where compromise is the name of the game. But a properly drafted compromise offers something for everyone; a satisfactory compromise is impossible on this issue for the two sides are too far apart. So all President Ford accomplished was to make everyone mad, thereby weakening his support in the 1976 election, and enhancing the prospects for his (probably virulently anti-gun) opponent. Which is precisely what Mr. Ford's friends in the press had in mind.

If the President didn't see the boobytrap, it's obvious that the Republicans in Congress did, for he couldn't find a sponsor for his bill for almost two weeks. Then, instead of someone with a reputation as a "moderate" on gun legislation, he had to settle for Rep. Robert McClory (Ill.) and Sen. Hiram Fong (Hawaii), both of whom are on record in favor of more restrictive legislation (McClory has introduced a registration bill) and both of whom immediately stated that they would offer their own amendments to the Administration bill (S. 2186/H.R. 9022) in order to "strengthen" it.

Congress won't soon forget the tremendous outpouring of opposition to the Consumer Product Safety Commission's handgun ammo ban proposal, and quite correctly assessed the gun fraternity's reaction to the President's "compromise" measure—which has long, scarcely concealed fangs.

The bill prohibits the manufacture, importation, sale or *private transfer* of any handgun falling into the Saturday Night Special category, as defined in the bill. In addition to a point system based on largely meaningless features such as "target" grips, sights and triggers, pistols (single-shots or autos) must be at least six inches long, four inches high, and have a *manually* operated safety; revolvers must have a 4-inch barrel and a 4½-inch frame, with a hammer-blocking system that will allow it to pass a 30-inch drop test.

So if the bill became law, and you owned a two-inch barrel S&W Chief's Special, or a Single Action Colt .45 (which doesn't have a hammer block), or a Thompson/Center Contender .30-30 (which doesn't have a manual safety), or any of an estimated 150 popular, well-made models, *that gun would have to be buried with you when you die*. It would be unlawful for you to transfer it to anyone else, even a dealer or member of your immediate family.

While the President has said that he would not support a gun registration or owner licensing bill, this bill misses that status in name only, for it requires that dealers notify police of all potential handgun purchases, and provides 14 days for police to run a check through the FBI's computer to determine if you're a felon or otherwise prohibited from purchasing a firearm. The kicker is: with certain exceptions, no one could legally purchase more than one gun within 30 days. The only feasible way to enforce that provision would be for the handgun purchaser check to be noted by the FBI's computer, and once a handgun purchase were recorded in the computer, it would be unlikely to ever be removed.

In describing the bill, Attorney General Levi made some nonsensical statements about the ease with which anyone may become a gun dealer. He pointed out that there has been about a 50 percent increase in the number of dealers since enactment of the 1968 Gun Control Act but failed to note the reason: under that law, not only gun dealers but ammunition dealers must be licensed. The problem of too many dealers would be solved by establishing a new set of license fees ranging up to \$500 per year, and by investigating each applicant's business experience, his capitalization and "other relevant factors" to determine whether the firm should be granted a license or renewal.



Much has been made of the mandatory punishment for federal crimes committed with a firearm, which is reportedly in the bill. Actually, that is already in federal law, but judges may give probation—and they do. So the Administration has proposed an amendment to S. 1, the criminal code reform bill, to eliminate this discretionary authority.

The Attorney General claimed that local restrictive gun laws are not working because dealers in other jurisdictions are selling guns to residents of "tight control" areas, adding that "the 1968 provision prohibiting such sales has not been enforced." But who has failed to enforce it? His own Justice Department. U.S. Attorneys usually refuse to prosecute individuals making illegal purchases, for they say they're "not going to make the federal courts into a police court." Levi indicated that attitude exists in explaining that his earlier proposal to ban handguns in high crime rates wasn't feasible because "U.S. Attorneys would have become involved in prosecuting what are essentially street crimes. . . ."

Levi said that two to seven percent of handgun purchases checked in random sampling involved apparent violations of federal law, and 58 percent of multiple handgun purchases involved apparent violations. It would certainly be interesting to know what percentage of those unlawful purchases by felons were prosecuted.

The bill provides for 500 additional BATF agents based in ten cities. But if the problems with the law are stated correctly, they could do more good in outlying areas where guns are being illegally purchased. It would be far more effective to hire 500 U.S. Attorneys willing to prosecute violence-related gun crimes.

While there are several other specific sections of the Administration bill to which we object, they aren't too important, for that bill—as written—isn't going anywhere. But the Ford Administration is now on record as being opposed to private ownership of certain classes of handguns, not all of them cheap, small, or short-barreled. Therefore, Administration opposition to more-restrictive measures has been weakened. It's like the old story of the girl who would go to bed for \$1 million, but not for \$2; the fact that she's a prostitute has been established, all that remains is to haggle about the price.

In proposing a law that is strictly a political compromise, a half-way measure that cannot be effective when more restrictive measures have proved ineffective, the Ford Administration has prostituted itself in the hope of political gain. On this issue, the President would have been far better off to have gone "whole hog or none," for then he might have gained votes from one side or the other. But the course he chose cost him votes from both sides—particularly our side, for we are the ones most affected. And in the process, his support for half a loaf makes it easier for the other side to push for the whole loaf. It means we'll have to push harder. And we will.—NEAL KNOX.

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[Extract from the Congressional Record, Nov. 14, 1975]

By Mr. KENNEDY (for himself and Mr. FONG):

S. 2675. A bill to amend chapter 44 of title 18, United States Code, to prohibit persons convicted of crime from acquiring a handgun, to provide a procedure for checking whether a prospective purchaser of a handgun has a prior criminal record, to aid law enforcement agencies in tracing handgun models, and for other purposes. Referred to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, the national debate over the need for effective gun control legislation continues undiminished. It remains clear that no rational plan for combating violent crime, which has soared over 100 percent since 1968, and is eroding the quality of American life, can ignore the need for strong, national gun control legislation.

Even more frightening than the increase in the number of crimes is the violence that has come to characterize so much of it. Just as American business tries to utilize the latest in technology, so also does the criminal often turn to the most effective means of violence available—the modern handgun.

Handguns continue to be the largest single source of the firearms problem in America. The weapon is readily adaptable to the trade of the criminal: small, easily concealable, and yet deadly, it provides the violent criminal with a basic tool of his trade. In short, handguns provide a terribly effective means for employing deadly force. That is why they account for over 50 percent of



all murders nationwide and are involved in almost 95 percent of the armed robberies. Moreover, an attack with a gun is five times more likely to be fatal than is an attack with a knife. Thus, as guns become more associated with assaults, the percentage of assaults resulting in deaths continue to increase.

The potential for violence which the handgun represents must give us cause for concern. Yet this concern has not been translated into congressional action. The fight for more effective gun control has lasted through at least six Congresses and seven Attorneys General, with inaction being the watchword. The legislative machinery has creaked on slowly, reversing itself at times and grinding to a halt at frequent intervals.

In 1972 the Senate approved legislation to restrict access to cheap handguns—the so-called Saturday night specials. However, no action was taken by the House on that measure. There are currently over 60 gun control bills of all types pending before the two Houses of Congress. Yet, the prospects of passage of any of them are not bright, and we need not look far for the answer.

Gun lobbies have been very, very effective. The gun lobby does not deny that handguns abuse is a major problem of our time. Rather, it argues that the focus of any remedial effort should be on the person who abuses the gun rather than on the gun itself. Thus, the gun lobby sees most pending gun control proposals as overly broad and having too great an impact on the peace-loving citizen.

Mandatory legislation and licensing of handguns are unacceptable to the gun lobby as an infringement on the right of the law-abiding citizen to own a handgun. Any ban on domestic manufacture, distribution, and sale of handguns is also attacked as overbroad and unfair. In short, the gun lobby asks that proposed legislation look to the criminal not to the handgun.

I firmly reject the arguments of the gun lobby as both narrow-minded and self-serving. And I have in the past introduced legislation requiring the national registration of handguns, the licensing of all handgun owners, and a ban on the manufacture and distribution of handguns. I view such broad legislation as essential if we are to make a significant dent in our soaring crime rate.

Nevertheless, today I am proposing modest legislation designed to assist law enforcement without raising any specters of licensing or registering which have traditionally been anathema to the gun lobby. This legislation is directed primarily at the criminal who uses a handgun, not the law-abiding citizen. The bill—limited in purpose—would:

First. Prohibit felons from acquiring a handgun by providing an effective procedure for checking whether a prospective purchaser has a prior criminal record.

Second. Provide a transfer notice system whereby the record of any sale of a new or used handgun would be retained only by the local dealer. Only the model and serial number of the handgun, but not the names of the seller or purchaser, would be forwarded by the dealer to the Treasury Department. No sales or transfers of handguns, made in accordance with local law, would be prohibited.

Third. Ban the manufacture and distribution only of so-called Saturday night specials.

The principal purpose of the first requirement is to put teeth into those portions of the 1968 Gun Control Act which charges the Treasury Department with enforcing the law against felons possessing handguns.

Under the bill any purchaser of a new or used handgun must visit the local dealer and complete certain forms stating that under Federal and local law he is entitled to purchase or possess a handgun. The dealer then submits the forms to local law enforcement officers and the Federal Bureau of Investigation. Within 15 days after submitting the forms, the local dealer is notified by the law enforcement agencies whether the prospective purchaser or transferee is entitled to possess the handgun. This 15-day "cooling off" period allows an effective check to be made to assure that felons and other persons prohibited by local law from owning handguns do not acquire them.

If the prospective purchaser is cleared by the agencies, then the purchase may be effectuated. Under express provisions of the bill, the Federal Bureau of Investigation may not retain any record of its check done pursuant to this bill, but must return all of the forms to the local dealer.

The second feature of the bill is novel, establishing a so-called transfer notice system. Under the system, a prospective purchaser of a handgun must prior to acquiring the weapon, go through the same check as if he were purchasing a new handgun. If found to be eligible to possess a handgun, the purchaser, or transferee would take a form to the private seller or transferor who would then make the sale. The seller would then mail or deliver the form in person to the local dealer.

Although the local dealer would maintain records of the transfer, including the names of the transferee, he would be prohibited by law from forwarding those names to the Treasury Department. The only information forwarded by local dealers would be the model and serial number of the handgun and the date of sale.

This procedure avoids any centralized index of handgun owners and has as its limited objective solely the tracing of handguns. Thus, if a handgun is left at the scene of a crime, the Treasury Department can check the serial number of its index, contact the local dealer who made the sale and find out from him who last owned the gun. If an offender is arrested with a handgun in his possession, and has not acquired the weapon pursuant to the provisions of this bill, he faces a possible sentence of 5 years and a fine of \$5,000. This will provide an efficient, effective way to punish the criminal who possesses a handgun unlawfully.

A transferor who sells or transfers his handgun to another person without complying with the provisions of this bill by notifying the local dealer of the transfer also faces criminal sanctions.

A third requirement of the bill is to outlaw so-called Saturday night specials. This portion of the bill is hardly controversial, and is designed to accomplish a similar bar to cheap handguns as that passed by the Senate in 1972. Similar legislation has been introduced by Senator BAYH this year.

Mr. President, a brief look at the crime scene reveals not only unmitigated suffering produced by criminal abuses of firearms, but also a breakdown in our efforts to deal with the problem. Our present criminal justice system does not make effective use of our present laws in dealing with handgun abusers. The bill I introduce today does not establish a registration system, nor a licensing scheme, nor a ban on the manufacture and sale of handguns. I have not given up my commitment to these approaches which I believe are many times more effective in combating crime than the bill I am proposing today. But we must start somewhere, and the least we can do is to punish the criminal who illegally possesses a handgun and help law enforcement agencies track the culprit down. This bill is thus a straightforward law enforcement tool for attacking the problem of unchecked possession of weapons which are used in so many crimes.

94TH CONGRESS  
1ST SESSION

# S. 2675

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 14, 1975

Mr. KENNEDY (for himself and Mr. FONG) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend chapter 44 of title 18, United States Code, to prohibit persons convicted of crime from acquiring a handgun, to provide a procedure for checking whether a prospective purchaser of a handgun has a prior criminal record, to aid law enforcement agencies in tracing handgun models, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act may be cited as the "Handgun Crime  
4       Control Act of 1975".

5       SEC. 2. The Congress hereby finds and declares—

6               (a) that the criminal misuse of handguns, particu-  
7       larly low quality, easily concealable handguns, is a sig-

1       nificant factor in the prevalence of violent crime in the  
2       United States;

3           (b) that the absence of effective law enforcement  
4       investigation to determine whether a handgun purchaser  
5       has a prior criminal record contributes to the easy avail-  
6       ability of handguns for unlawful criminal purposes;

7           (c) that the imposition of a short waiting period  
8       prior to the purchase of a handgun would not unduly  
9       inconvenience a law-abiding citizen and would give law  
10      enforcement agencies adequate time to determine  
11      whether a prospective purchaser has a prior criminal  
12      record;

13          (d) that recordkeeping limited solely to the nature  
14      of the handgun is a valuable law enforcement tool; and

15          (e) that receipt or possession of firearms by con-  
16      victed felons otherwise barred by Federal law from such  
17      receipt or possession constitutes a burden on commerce  
18      and a threat affecting the free flow of commerce.

19      SEC. 3. Section 921 of title 18, United States Code, is  
20      hereby amended by adding a new paragraph (21) as  
21      follows:

22          “(21) The term handgun means a firearm which is  
23      designed to be held and fired by the use of a single hand.”.

24      SEC. 4. Section 922 of title 18, United States Code, is  
25      amended by—

## 3

1           (a) adding after the words "replacement firearm"  
2       in subsection (a) (2) (A) the words ", other than a  
3       handgun whose transfer is prohibited under subsection  
4       (p) of this section,";

5           (b) adding after the words "mailing a firearm" in  
6       subsection (a) (2) (A) the words ", other than a hand-  
7       gun the transfer of which is prohibited under subsection  
8       (p) of this section,";

9           (c) adding after the words "rental of a firearm" in  
10      subsection (a) (5) the words ", except a handgun the  
11      transfer of which is prohibited under subsection (p),";

12          (d) adding after the words "loan or rental of a  
13      firearm" in subsection (b) (3) (B) the words ", other  
14      than a handgun the transfer of which is prohibited under  
15      subsection (p)," ;)

16          (e) adding after the words "may sell a firearm"  
17      in subsection (c) the words ", other than a handgun,";

18          (f) deleting ", in the case of any firearm other than  
19      a shotgun or a rifle, I am twenty-one years or more of  
20      age, or that, in the case of a shotgun or a rifle," in  
21      subsection (c) (1) ;

22          (g) adding the following new subsection at the end  
23      of section 922:

24      “(n) It shall be unlawful for a licensed importer,  
25      licensed manufacturer, or licensed dealer to sell or transfer



## 4

1 a handgun to a person, other than a licensed importer,  
2 licensed manufacturer, or licensed dealer, unless the trans-  
3 feree appears in person at the place of business of the licensed  
4 importer, licensed manufacturer, or licensed dealer and—

5 “(1) the licensed dealer receives from the transferee  
6 a statement submitted under oath in a form to be deter-  
7 mined by the Secretary and stating the name, place of  
8 residence, birth date, and birth place of the transferee  
9 as well as the address of any place, other than the place  
10 of the transferee’s residence, where the transferee intends  
11 to maintain the handgun. The statement shall indicate  
12 whether the transferee is entitled to receive and maintain  
13 the handgun under applicable Federal law, State law,  
14 and published ordinance applicable in the locale where  
15 the residence is maintained or where the handgun will be  
16 maintained;

17 “(2) the licensed dealer receives from the transferee  
18 a statement indicating the name and address of the chief  
19 law enforcement officer for the place of the transferee’s  
20 residence and the place where the handgun is to be  
21 maintained;

22 “(3) the licensed dealer receives from the transferee  
23 a true copy of any permit or license required by any  
24 State law or published ordinance applicable at the place  
25 of the transferee’s residence or any place where the

## 5

1 handgun will be maintained, as well as a sworn state-  
2 ment containing any information required by a State law  
3 or published ordinance applicable to the transferee;

4 “(4) the licensed dealer receives from the transferee  
5 such identification as the Secretary shall by regulation  
6 require to establish reasonable grounds to believe that  
7 the transferee has supplied his true name and true  
8 address;

9 “(5) the licensed dealer submits copies of the sworn  
10 statement to the chief law enforcement officer or officers  
11 named in the statement by registered or certified mail  
12 (return receipt requested) in order that such officer or  
13 officers might have an opportunity to verify the trans-  
14 feree’s identity, address, and right to own or possess a  
15 handgun;

16 “(6) the licensed dealer submits a copy or the  
17 sworn statement to the Federal Bureau of Investigation  
18 by registered or certified mail (return receipt requested)  
19 for the purpose of initiating a check of any prior criminal  
20 history, the result of which shall, within seven working  
21 days of the Bureau’s receipt of the copy, be transmitted  
22 by the Bureau to the chief law enforcement officer of the  
23 transferee’s place of residence so that he might inform  
24 the licensed dealer of the results of the check;

25 “(7) the licensed dealer has received return receipts

## 6

1        indicating that the copies of the statements were received  
2        or has had the statements returned to him as a result  
3        of the refusal of the addressee to accept the mailing;

4        “(8) the licensed dealer has either—

5                “(A) received reports from all law enforce-  
6                ment officers named in the statement as well as the  
7                Federal Bureau of Investigation stating that the  
8                records of the Federal Bureau of Investigation and  
9                of the law enforcement officers do not indicate that  
10              the transferee is prohibited from owning or pos-  
11              sessing a handgun; or

12              “(B) waited fifteen days (excluding Satur-  
13              days, Sundays, and legal holidays) from the time  
14              that the licensed dealer forwarded all materials he  
15              is required to submit to law enforcement officers and  
16              has received all information required from the  
17              transferee.

18        The provisions of this subsection shall not apply to the loan  
19        or rental of a firearm to any person for temporary use for  
20        lawful sporting purposes.

21        “(o) (1) It shall be unlawful for a person, other than  
22        a licensed importer, licensed manufacturer, or licensed dealer  
23        to purchase or receive a handgun from another person, other  
24        than a licensed importer, licensed manufacturer, or licensed  
25        dealer unless—

## 7

1           “(A) the transferee appears in person at the busi-  
2           ness premises of a licensed dealer in order to provide the  
3           sworn statement and suitable identification as would be  
4           required under subsection (n) if the licensed importer,  
5           licensed manufacturer, or licensed dealer were the  
6           transferor;

7           “(B) the licensed dealer has taken the steps pro-  
8           vided in subsection (n) to assure that the sale by the  
9           transferor is in accord with Federal, State, and local law;

10          “(C) the transferee has paid the licensed dealer  
11          a fee, not to exceed \$10, prescribed by the Secretary for  
12          the action taken by the licensed dealer;

13          “(D) the transferee has received, by mail or in  
14          person, three copies of certification by the licensed deal-  
15          er, in a form prescribed by the Secretary, that he has  
16          not received information within the period prescribed in  
17          subsection (n) to indicate that the transferee is pro-  
18          hibited from owning or possessing or purchasing a hand-  
19          gun under Federal, State, or local law;

20          “(E) the transferee has presented the certificate  
21          prescribed in subparagraph (D) to the transferor prior  
22          to transfer of the handgun; and

23          “(F) the transferee has retained a copy of the cer-  
24          tificate as verification of his compliance with this sub-  
25          section. The licensed dealer shall also retain a copy of

1 the certification as part of the records required to be  
2 kept under section 923 (g) of this chapter.

3 “(2) It shall be unlawful for a person, other than a  
4 licensed importer, licensed manufacturer, or licensed dealer,  
5 to sell or transfer a handgun to another person, other than  
6 a licensed importer, licensed manufacturer, or licensed dealer  
7 unless—

8 “(A) the transferee first presents a signed certifi-  
9 cate from a licensed dealer, pursuant to the provisions of  
10 subsection (1) (E) of this subsection, to the transferor,  
11 stating that the transferee is not prohibited from owning,  
12 possessing, or purchasing a handgun under Federal,  
13 State, or local law;

14 “(B) the transferor returns a copy of the certifi-  
15 cate to the licensed dealer, signed by the transferee and  
16 the transferor to indicate the date and place of sale and  
17 a description of the handgun; and

18 “(C) the transferor retains a copy of the certificate  
19 as verification of his compliance with this subsection.  
20 The licensed dealer shall retain a copy of the certifica-  
21 tion, complete with information concerning final dispo-  
22 sition of the handgun under this subsection, as part of the  
23 records required to be kept under section 923 (g) of this  
24 chapter. The provisions of this subsection shall not apply



## 9

1 to the loan or rental of a firearm for temporary use for  
2 lawful sporting purposes.

3 “(p) It shall be unlawful for any person to manufacture,  
4 sell, buy, transfer, or receive any handgun unless the Sec-  
5 retary has found that such handgun model—

6 “(1) is particularly suitable for lawful sporting  
7 purposes;

8 “(2) meets the published standards used by the  
9 Secretary under section 925 (d) (3) of this chapter as  
10 of November 1, 1975; and

11 “(3) has a barrel of six inches or more in length.

12 “(q) It shall be unlawful for any person to modify any  
13 firearm if as a result of such modification the firearm would  
14 be a handgun which would fail to meet the standards pre-  
15 scribed pursuant to subsection (p) of this section.

16 “(r) It shall be unlawful for any person, other than a  
17 licensed importer, licensed manufacturer or licensed dealer,  
18 knowingly to fail to report the loss or theft of a handgun in  
19 his possession to a licensed dealer. The licensed dealer shall  
20 retain a record of the report of loss as part of the records  
21 required to be kept under section 923 (g) and shall give a  
22 copy, signed by the licensed dealer, to the person reporting  
23 the loss or theft to retain as verification of his compliance  
24 with this subsection.”.

## 10

1           (h) deleting the words “in interstate or foreign  
2       commerce” in subsection (g) .

3           (i) deleting the words “in interstate or foreign  
4       commerce” in subsection (h) .

5       SEC. 5. Section 923 of title 18, United States Code, is  
6   amended by:

7       (a) adding at the end of subsection (g) the following:  
8       “A licensed importer, licensed manufacturer, or licensed  
9       dealer who is required to retain records of a handgun trans-  
10      fer under subsection (n), (o), or (r) of section 922 of this  
11      chapter shall submit a record of the transfer to the Secretary,  
12      which shall include the identification of the manufacturer,  
13      model, caliber, and serial number of the handgun, the name  
14      and license number of the licensee, and the date of the trans-  
15      fer, but shall not include the name or address of the transferee  
16      under subsection (n) or (o) or of the transferor unless the  
17      transferor or transferee is a licensee. The Federal Bureau of  
18      Investigation shall not retain any record of the name and  
19      address of a potential transferee, which name and address  
20      was obtained by the Bureau solely as a result of a submission  
21      under section 922 (n) (6), unless an identification check re-  
22      vealed that the making of such statement involved an offense  
23      of perjury or of giving a false statement.”.

24       SEC. 6. Section 925 of title 18, United States Code, is  
25   amended:

1           (a) by adding after the word "firearms" in subsec-  
2       tion (a) (2) the words ", other than a handgun the  
3       transfer of which is prohibited under section 922 (p) of  
4       this chapter,";

5           (b) by adding after the words "may receive a fire-  
6       arm" in subsection (a) (3) the words ", other than a  
7       handgun the transfer of which is prohibited under sec-  
8       tion 922 (p) of this chapter,";

9           (c) by adding after the words "of any firearm" in  
10      subsection (a) (4) the words ", other than a handgun  
11      the transfer of which is prohibited under section 922 (p)  
12      of this chapter,"; and

13          (d) by amending subsection (d) (3) to read as  
14      follows:

15          "(3) is of a type that does not fall within the def-  
16      inition of a firearm as defined in section 5845 (a) of  
17      the Internal Revenue Code of 1954; is not a surplus  
18      military firearm; is generally recognized as particularly  
19      suitable for sporting purposes; and, if a handgun, trans-  
20      fer is not prohibited under section 922 (p) of this chap-  
21      ter; or".

22      SEC. 7. Section 1202 of title VII of the Omnibus Crime  
23      Control and Safe Streets Act, as amended (18 U.S.C. App.  
24      1202), is amended by:

## 12

1           (a) deleting the words “in commerce or affecting  
2 commerce” in subsection (a) ; and

3           (b) deleting the words “in commerce or affecting  
4 commerce” in subsection (b) .

5       SEC. 8. This Act shall become effective ninety days  
6 after the date of enactment, except that the amendments to  
7 section 922 (a) (2) (A) of title 18, United States Code, shall  
8 not preclude the return within thirty days of the effective  
9 date to the person from whom it was received of a handgun  
10 the transfer of which is prohibited under section 922 (p) of  
11 title 18 which was transferred to the licensed importer, li-  
12 censed manufacturer, licensed dealer, or licensed collector  
13 before the effective date of the Act.

[Extract from the Congressional Record, Dec. 15, 1975]

By Mr. Moss:

S. 2790. A bill to strengthen the penalty provisions of the Gun Control Act of 1968. Referred to the Committee on the Judiciary.

Mr. Moss. Mr. President, one of the most alarming crises which we face in this Nation today is the dramatic increase in violent crimes being perpetrated upon our citizenry. We have enacted volumes of legislation in our never ending attempt to curtail the increase in crime. While some of this legislation has been effective to a degree it still has not deterred the criminal from committing his acts nor has it caused a decrease in the use of firearms during the commission of crimes, making them violent crimes. Most of us recognize the need to eliminate the use of firearms by criminals. Many of my colleagues firmly believe that the only way to eliminate the use of firearms by criminals is to limit manufacture and accessibility of those firearms.

Mr. President, I have not subscribed to that position and I do not support it. Such legislation will not eliminate the use of firearms by criminals. There are already too many firearms which are privately owned to be able to effectively control anything but the sale of new firearms. Controlling the sale will have little or no impact upon the accessibility to firearms by the criminal; he need only obtain one already available to avoid registration. Firearms last a long time, so those that are presently available will continue to be so for at least another 50 years. In addition, there are many States which do not believe that there is a need to patrol the sale of guns within their jurisdiction, and those States ought to have the opportunity to determine the license and registration requirements which should apply to their own residents.

There is, however, Mr. President, an alternative to the requirements of license and registration, an alternative which will effectively deter the use of firearms by the criminal during the commission of a crime. That is to make certain that anyone using a firearm in the commission of a crime will automatically receive additional incarceration for such use. The legislation which I am introducing will serve to provide an additional penalty of not less than 5 nor more than 10 years for anyone who uses a firearm during the commission of a crime. It further provides that anyone who is convicted of using a firearm a second time will receive an additional sentence of not less than 10 nor more than 25 years. This legislation also provides that anyone using a firearm in the commission of a crime shall not be entitled to a suspended sentence nor probation for the period of the additional sentence.

Mr. President, with the enactment of this legislation, anyone considering commission of a crime will certainly think twice about automatically having to serve an additional sentence of 5 to 25 years because he used a firearm in the commission of his crime. No other legislation will be effective to reduce the use of firearms by criminals during the commission of a crime.

Mr. President, I urge the earliest consideration and passage of this bill for the benefit and protection of the citizens of this great Nation.



94<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 2790

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 1975

Mr. Moss introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To strengthen the penalty provisions of the Gun Control Act of 1968.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That subsection (c) of section 924 of title 18 of the United  
4       States Code is amended to read as follows:

5       “(c) (1) Whoever—

6               “(A) uses or unlawfully carries any firearm during  
7       the commission of any offense which threatens life or  
8       property and which is punishable under Federal law by  
9       imprisonment for a term exceeding one year; or

10              “(B) during the commission of any offense which  
11       threatens life or property and which is punishable under

## 2

1 State law by imprisonment for a term exceeding one  
2 year, uses or unlawfully carries a firearm any part of  
3 which has been transported in interstate or foreign  
4 commerce;

5 shall, in addition to the punishment provided for such offense,  
6 be sentenced to a term of imprisonment for not less than five  
7 nor more than ten years.

8 “(2) Whoever, after having been convicted of such  
9 offense while so using or unlawfully carrying a firearm as  
10 described in paragraph (1) of this subsection, is convicted of  
11 a second or subsequent such offense while so using or unlaw-  
12 fully carrying a firearm, shall, in addition to the punishment  
13 provided for the commission of such offense, be sentenced to  
14 a term of imprisonment for not less than ten nor more than  
15 twenty-five years. The imposition or execution of such addi-  
16 tional sentence shall not be suspended nor probation granted.

17 “(3) Any State court having jurisdiction over the trial of  
18 any offense described in paragraph (1) (B) of this subsec-  
19 tion, shall also have jurisdiction to impose the additional  
20 penalties provided by such paragraph.”.

21 SEC. 2. (a) The Attorney General of the United States  
22 shall take steps to insure, by such means as he deems appro-  
23 priate, including the use of broadcasting and periodical media,  
24 public awareness of the provisions of this Act.

25 (b) There are authorized to be appropriated such funds  
26 as may be necessary to carry out the provisions of this section.

## STATEMENT OF SENATOR BIRCH BAYH

WASHINGTON, D.C., Nov. 4, 1975.

Senator Birch Bayh (D.-Ind.) said today he will amend the Violent Crime and Repeat Offender Control Act which he introduced earlier this year in order to strengthen the bill's sections on gun control.

Bayh said he will distribute the revised bill and a draft report to the members of the Senate Subcommittee To Investigate Juvenile Delinquency to solicit their views and support.

As Chairman of the Subcommittee, Bayh has held a series of hearings to explore initiatives to more effectively curb the "senseless slaughter of innocent human beings and the ever-escalating number of armed assaults and robberies involving handguns."

In a statement today, Bayh said the additional provisions being drafted "will help insure that handguns will not find their way into the hands of felons or other persons who will misuse them."

Bayh said his strengthened bill will include the following major provisions:

Prohibit the commercial sale of all nonsporting handguns, including the infamous Saturday Night Special. According to Treasury officials substantially more than 75 percent of the handguns used in crime would be prohibited under this provision.

Establish a mandatory waiting period for all handgun sales in order to give Federal, State and local officials workable law enforcement tools to insure that felons and other persons currently prohibited by law from possessing firearms will not be able to buy handguns.

Ban multiple purchases of handguns by individuals in order to curb the serious problems of interstate traffic in handguns.

Prohibit citizens from selling or giving handguns to felons.

Require firearm manufacturers and dealers to promptly report the theft or loss of firearms.

Institute reasonable and balanced provisions to insure that licensed handgun dealers are legitimately engaged in firearms commerce.

Institute mandatory penalties for persons convicted of using firearms to commit crimes and require that trials of such cases are expeditiously handled by the courts.

Increase penalties for those involved in illicit interstate traffic in firearms and institute special provisions aimed at eliminating the type of "straw man" purchases used to circumvent the Gun Control Act.

Bayh said his proposal to ban the commercial sale of nonsporting, easily concealable handguns, along with important additional provisions, form a comprehensive and workable strategy which will reduce the number of handgun crimes and "restore a lost sense of security to our homes and neighborhoods."

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[Extract from the Congressional Record, Nov. 4, 1975]

## BAYH SEEKS SUBCOMMITTEE ACTION ON HANDGUNS

MR. BAYH. Mr. President, I have instructed my staff of the Subcommittee to Investigate Juvenile Delinquency, Committee on the Judiciary, to draft amendments to my Violent Crime and Repeat Offender Control Act of 1975, S. 1880, which is designed to help put an end to the terrible toll inflicted on our society through the use of handguns in crime. These additional provisions will insure that handguns will not find their way into the hands of felons or other persons who will misuse them. I intend to distribute this measure and a draft report to the members of my subcommittee in order to solicit their views and support.

For more than a decade the subcommittee has conducted extensive investigations on a broad range of proposed firearms legislation. These efforts led to the passage of the Gun Control Act of 1968 which was written and developed by the subcommittee. In 1972, the Senate by a vote of 68 to 25 passed a bill I introduced which would have applied to all commercial handgun sales the criteria currently applied only to imported handguns. Unfortunately, the House failed to act on this measure. Since April of this year we have been holding a series of hearings designed to explore current and suggested additional initiatives to more effectively curb the senseless slaughter of innocent human beings

and the ever-escalating number of armed assaults and robberies involving handguns. Over the past 8 months we have heard testimony from numerous witnesses including Attorney General Levi and Assistant Secretary of the Treasury David Macdonald.

Our extensive study has shown that the nonsporting, easily concealable handgun demands our immediate attention because of its popularity and use as the favorite side arm of the street criminal.

These are the weapons that are the instruments of crime.

These are the instruments that allow every petty criminal to terrorize our neighborhoods and streets into ghost towns after dark.

The former Director of the Bureau of Alcohol, Tobacco, and Firearms put it quite correctly when he told the subcommittee:

"What criminals want are small, compact, light weight weapons. They want weapons with no handgrips or sights to catch in a pocket. Concealability is the prime requisite."

Mr. President, nonsporting, easily concealable handguns are of no use to the Americans sports shooter or target shooter, but are found in an overwhelming number of gun-related crimes. It is time we put an end to this American tragedy.

My proposal to ban the commercial sale of these nonsporting handguns, along with important additional provisions, form a comprehensive and workable strategy which will reduce the number of handgun crimes and restore a lost sense of security to our homes and neighborhoods.

My strengthened bill will include the following major provisions:

Prohibit the commercial sale of all nonsporting handguns, including the infamous Saturday night special. According to Treasury officials substantially more than 75 percent of the handguns used in crime would be prohibited under this approach.

Establish a mandatory waiting period for all handgun sales in order to give Federal, State, and local officials workable law enforcement tools to insure that felons and other persons currently prohibited by law from possessing firearms will not be able to buy handguns.

Ban multiple purchases of handguns by individuals in order to curb the serious problems of interstate traffic in handguns.

Prohibit citizens from selling or giving handguns to felons.

Require firearm manufacturers and dealers to promptly report the theft or loss of firearms.

Institute reasonable and balanced provisions to insure that licensed handgun dealers are legitimately engaged in firearms commerce.

Institute mandatory penalties for persons convicted of using firearms to commit crimes and require that trials of such cases are expeditiously handled by the courts.

Increase penalties for those involved in illicit interstate traffic in firearms and institute special provisions aimed at eliminating the type of "straw man" purchases used to circumvent the Gun Control Act.

Mr. President, anyone familiar with the problem of firearms in crime readily recognizes the incredible complexities involved in these issues and should also recognize that we cannot hope to solve them through the imposition of simplistic solutions. The program which I have briefly outlined above is not aimed at the legitimate sports shooter or sporting handgun, but is tough on the kinds of firearms used as instruments of terror and those people who would use them in that manner. It is not everything some would want and far more than others are prepared to accept. I believe, however, that this approach represents a workable measure which can pass the Congress, can become law and will save lives and reduce crime.

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#### STATEMENT OF SENATORS BIRCH BAYH

WASHINGTON, D.C., Nov. 10, 1975

Senator Birch Bayh (D.-Ind.) today introduced a series of amendments to the Handgun Crime Control Act which he introduced earlier this year in order to strengthen the bill.

The amendment introduced today provides the following law enforcement tools:



**Waiting period.** To help assure that individuals and dealers are not unsuspectingly selling handguns to felons and other prohibited persons, this amendment requires that the actual receipt of a handgun be delayed for a period of not more than eighteen days during which time Federal and local authorities will conduct a crime records check.

**Multiple Handgun Purchases.** In order to prohibit high volume illegal handgun traffic this amendment would not permit the purchase of more than one handgun each year except for extraordinary circumstances, such as those involving the loss, theft or permanent malfunction of a handgun.

**Sale to Felons.** Under current law it is not illegal for a private person to sell handguns to felons and other prohibited persons. To plug this loophole this amendment prohibits such intentional sales.

**Go-Between.** The intermediate purchaser is frequently a vital link in the chain of illicit handgun traffic. Without strong evidence of conspiracy such persons currently are not successfully prosecuted. This amendment cures this defect by making such specific conduct a violation of the 1968 Act.

As originally introduced by Senator Bayh, the Handgun Crime Control Act contained provisions to prohibit the commercial sale of all non-sporting handguns including those commonly referred to as "Saturday Night Specials." According to Treasury officials, substantially more than 75 percent of the handguns used in crime would be prohibited under this provision.

The bill also contains provisions for mandatory penalties for persons convicted of using firearms to commit crimes and provisions requiring that trials of such cases be expeditiously handled by the courts. Increased penalties are also provided for those involved in illicit interstate traffic in firearms.

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[Extract from the Congressional Record, Nov. 10, 1975]

#### BAYH STRENGTHENS HIS HANDGUN BILLS INCLUDES WAITING PERIOD, BAN ON MULTIPLE SALES AND PROVISIONS DIRECTED AT GUN TRAFFICKERS

##### STATEMENT BY SENATOR BAYH

For more than a decade the Subcommittee to Investigate Juvenile Delinquency which I Chair, has conducted extensive investigations on a broad range of proposed firearms legislation.

These earlier efforts, from 1963-1968, established that the availability of foreign made, easily concealable, often inexpensive handguns, with no legitimate sporting purposes, constituted a serious threat to law enforcement, to the public safety and welfare, and to the integrity of state firearms control laws. That Act which was written and developed by the Subcommittee banned their importation.

It soon became apparent, however, that Congressional intent was effectively circumvented by enterprising firms in the United States that flooded the market with the very crime guns whose availability Congress had intended to curtail by the 1968 ban on non-sporting imports. As a consequence the Subcommittee's 1968 findings regarding the availability of these crime guns are unfortunately still valid today.

In 1972 the Senate, by a vote of 68-25, passed my bill to apply to all commercial handgun sales the criteria applied only to imported handguns. Unfortunately, the House failed to act on this measure.

This approach, now Title II of my Violent Crime and Repeat Offender Control Act of 1975, S. 1880, targets crime guns. Such a weapon was used to kill Robert Kennedy, to gun down Governor Wallace and was reportedly fired at President Ford in San Francisco.

Our extensive study has clearly documented that these lethal weapons, whose only purpose is to kill, are the favorites of murderers, armed robbers and gun-wielding assailants who terrorize our communities. It is this concealability that is uniquely appealing. The former director of the Bureau of Alcohol, Tobacco and Firearms (ATF) put it quite succinctly when he told the Subcommittee:

"What (criminals) want are small, compact, light weapons. They want weapons with no handgrip or sights to catch in a pocket. Concealability is the prime requisite."



Let there be no mistake about it; we are talking about tens of thousands of murders and hundreds of thousands of assaults and robberies.

Ten years ago 43 percent of all homicides were by handguns. Today, nearly 7 in 10 involves a handgun!

In the same decade more than 50 police officers were murdered by assailants with handguns; last year alone 10,000 of our citizens were murdered with handguns!

My approach does not focus on the millions of law-abiding citizens who own firearms, significantly less than 1 percent of which are used in crime, but only on those small belly guns with no sporting purposes. Some critics claim that this approach is meaningless and only an illusion. The facts are to the contrary. According to Treasury officials, substantially more than 75 percent of the handguns used in crime would be prohibited under this approach!

Since April of this year we have been holding a series of hearings designed to explore current and suggested additional initiatives to more effectively curb the senseless slaughter of innocent human beings and the ever-escalating number of armed assaults and robberies involving handguns. Over the past 8 months we have heard testimony from numerous witnesses including Attorney General Levi and Assistant Secretary of the Treasury David MacDonald.

Nonsporting, easily concealable handguns are of no use to the American sports shooter or target shooter, but are found in an overwhelming number of gun-related crimes. It is time we put an end to this American tragedy.

Last June, when I introduced the Handgun Crime Control Act (Title II of S. 1880) I expressed support for the establishment of a mandatory waiting period for all handgun sales in order to give Federal, State, and local officials workable law enforcement tools to help insure that felons and other persons currently prohibited by law from possessing or purchasing handguns would not be able to obtain handguns.

Such a procedure, which was, in part, the focus of our April hearing is aimed at preventing felons, the insane, and other prohibited purchasers, and not sportspeople and otherwise law-abiding persons, from purchasing handguns.

Presently, the law does not provide a procedure to check whether a prospective purchaser is a prohibited one. All a felon must do to obtain a handgun, if age 21 and a resident of the State in which the purchase is made, is sign an affidavit disclaiming a criminal record. Treasury studies have revealed that approximately 3 percent of all such sales are made to felons. The proportion of felons purchasing from unsuspecting private sellers is estimated to be significantly higher.

I am likewise concerned about the growing pattern of illicit interstate traffic in firearms or "gun-running" in violation of Federal law. Treasury Department studies presented to the Subcommittee in April clearly demonstrated the serious impact that such criminal activity has had in major, particularly northern cities. The Bureau of Alcohol, Tobacco and Firearms conducted a study to determine, among other things, the source of handguns used in street crimes. The agents found that of 2,546 traceable weapons seized in New York City, 77 percent were traced out of the State of New York. In fact, one southern State supplied five times as many of the handguns seized in New York City as did the State of New York. In Detroit, 92 percent of the traceable handguns were from sources out of the State of Michigan. Of course, the interstate traffic in handguns between unlicensed persons is illegal under existing Federal law.

This ever-increasing illegal traffic is sustained, in part, by multiple purchases of handguns. Such sales are currently unlimited. The abuses are legion. For example, we heard testimony about a case in which an individual purchased, legally, 136 handguns in seven months, and then sold them out of the trunk of his car in a major urban area.

My "Handgun Crime Control Act" addresses most of the problems involving handgun violence. In addition to the ban on the crime guns, it provides increased penalties for those convicted of using guns in crimes; it prohibits the modification of handguns so as to circumvent the ban; it requires that lost or stolen handguns be reported; it provides increased penalties for "gun-runners"; and it requires that cases involving the use of handguns be handled expeditiously by the courts.

Today, however, I am introducing additional provisions which will significantly strengthen this measure. I am particularly appreciative that the Department of Justice so generously responded to my request for assistance in drafting these amendments.

The amendments provide the following law enforcement tools:

a. *Waiting Period*. To help assure that individuals and dealers are not unsuspectingly selling handguns to felons and other prohibited persons, my amendment requires that the actual receipt of a handgun be delayed for a period of not more than eighteen days during which time Federal and local authorities will conduct a crime records check.

b. *Multiple Handgun Purchases*. In order to prohibit high volume illegal handgun traffic my amendment would not permit the purchase of more than one handgun each year except for extraordinary circumstances such as those involving the loss, theft or permanent malfunction of a handgun.

c. *Sale to Felons*. Under current law it is not illegal for a private person to sell handguns to felons and other prohibited persons. To plug this gapping loophole my amendment prohibits such intentional sales.

d. *"Go-Between"*. The intermediate purchaser is frequently a vital link in the chain of illicit handgun traffic. Without strong evidence of conspiracy such persons currently are not successfully prosecuted. My amendment cures this defect by making such specific conduct a violation of the 1968 Act.

Anyone familiar with the problem of handgun crime readily recognizes the incredible complexities involved in these issues and should also recognize that we cannot hope to solve them through the imposition of simplistic solutions. My Handgun Crime Control Act as reinforced by the amendments I introduce today, is not aimed at the legitimate sports shooter or sporting handgun, but is tough on the kinds of firearms used as instruments of terror and those people who would use them in that manner.

It is not everything some would want. For example, it does not incorporate costly and unworkable licensing and registration provisions imposed by measures such as S. 1447; it does not require national confiscation as in S. 750; or regional confiscation as in S. 2153. It is far more than others are prepared to accept, for example, S. 141 which would repeal all existing control or S. 2186 offered by the President. These I have consistently rejected as have overwhelming majorities of our colleagues.

We cannot fulfill the obligation of our office by unnecessarily raising public expectations and then dashing them again. I believe, however, that my approach represents a workable measure which can pass the Congress, can become law, will save lives and reduce crime. I urge my colleagues to join me in this effort.

94TH CONGRESS  
1ST SESSION

# S. 1880

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 1975

Referred to the Committee on the Judiciary and ordered to be printed

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## AMENDMENTS

Intended to be proposed by Mr. ROBERT C. BYRD (for Mr. BAYH) to S. 1880, a bill to amend the Gun Control Act of 1968 and the Controlled Substances Act and other laws to strengthen existing law enforcement authority to curb violent crime, viz:

1       On page 2, after line 15, insert the following new clauses:

2           “(7) the absence of effective law enforcement in-  
3       vestigation to determine whether a handgun purchaser  
4       has a prior criminal record contributes to the easy avail-  
5       ability of handguns for criminal purposes; and

6           “(8) that the imposition of a short waiting period  
7       prior to the purchase of a handgun would not unduly in-  
8       convenience a law-abiding citizen and would give law  
9       enforcement agencies adequate time to determine wheth-  
10      er a prospective purchaser has a prior criminal record.”.

**Amdt. No. 1062—O**

**★(Star Print)**

## 2

1 On page 2, line 12, following the semicolon strike “and”.

2 On page 2, line 15, strike the period and insert a semi-  
3 colon.

4 On page 11, line 21, strike the close quotation marks.

5 On page 11, after line 21, insert the following new  
6 subsections:

7 “(r) It shall be unlawful for a licensed importer, licensed  
8 manufacturer, or licensed dealer to sell or transfer a handgun  
9 to a person, other than a licensed importer, licensed manufac-  
10 turer, or licensed dealer, unless the transferee appears in  
11 person at the place of business of the licensed importer,  
12 licensed manufacturer, or licensed dealer and—

13 “(1) the licensed dealer receives from the transferee  
14 a sworn statement in a form to be determined by the  
15 Secretary and stating the name, place of residence, birth  
16 date, and birthplace of the transferee as well as the juris-  
17 diction (local), other than the transferee’s residence,  
18 where the transferee intends to maintain the handgun.  
19 The statement shall indicate whether the transferee is  
20 entitled to receive and maintain the handgun under  
21 applicable Federal law, State law, and published ordi-  
22 nance applicable in the locale where the residence is  
23 maintained or where the handgun will be maintained;

24 “(2) the licensed dealer receives from the transferee  
25 a statement indicating the name and address of the chief

1 law enforcement officer for the jurisdiction of the trans-  
2 feree's residence and the jurisdiction where the handgun  
3 is to be maintained;

4 “(3) the licensed dealer receives from the transferee  
5 a true copy of any permit or license required by any  
6 State law or published ordinance applicable in the juris-  
7 diction of the transferee's residence or in the jurisdiction  
8 where the handgun will be maintained, as well as a sworn  
9 statement containing any information required by a State  
10 law or published ordinance applicable to the transferee;

11 “(4) the licensed dealer receives from the trans-  
12 feree identification sufficient to establish, under rules and  
13 regulations of the Secretary, reasonable grounds to be-  
14 lieve that the transferee is the person claimed to be, and  
15 that the residence is at the address stated in the trans-  
16 feree's sworn statement;

17 “(5) the licensed dealer has, prior to delivery of the  
18 handgun, forwarded by registered or certified mail (re-  
19 turn receipt requested) —

20 “(A) to the chief law enforcement officer of  
21 the jurisdiction of residence of the transferee and to  
22 the chief law enforcement officer of any other juris-  
23 diction where the transferee indicates in the sworn  
24 statement that the handgun will be kept—



“(i) a copy of the sworn statement, in a form prescribed by the Secretary; and

“(ii) a request that the officers verify the identity and State and local record of the transferee, to determine whether the ownership or possession of the handgun would be a violation of a Federal or State law or any published ordinance of the jurisdiction of the transferee's residence or the jurisdiction where the handgun will be kept; and

“(B) to the Federal Bureau of Investigation—

“(i) a copy of the sworn statement in a form prescribed by the Secretary; and

“(ii) a request that the Federal Bureau of Investigation check the records of the Identification Division to determine whether those records indicate that the transferee is barred from owning or possessing a handgun under subsection (h) of this section.

The Federal Bureau of Investigation shall submit to the Bureau of Alcohol, Tobacco and Firearms of the Department of Treasury, within five working days of the date of receipt of the request under this subsection, the results of the record check. If the transferee is ineligible under Federal or State law or local

## 5

1 ordinance the Bureau of Alcohol, Tobacco and Fire-  
2 arms shall, within five working days, notify the  
3 licensed dealer and the proper chief law enforcement  
4 officer (s) of such ineligibility.

5 “(6) the licensed dealer has received return receipts  
6 indicating that the copies of the statements were received  
7 or has had the statements returned as a result of the re-  
8 fusals of the addressee to accept the mailing;

9 “(7) the licensed dealer has either—

10 “(A) received reports from all law enforce-  
11 ment officers named in the statement as well as the  
12 Federal Bureau of Investigation stating that the rec-  
13 ords of the Federal Bureau of Investigation and of  
14 the law enforcement officers do not indicate that the  
15 transferee is prohibited from owning or possessing a  
16 handgun; or

17 “(B) waited eighteen days (excluding Satur-  
18 days, Sundays, and legal holidays) from the time  
19 that the licensed dealer forwarded all materials re-  
20 quired to be submitted to law enforcement officers  
21 and has received all information required from the  
22 transferee.

23 The provisions of this subsection shall not apply to the  
24 loan or rental of a firearm to any person for temporary  
25 use for lawful sporting purposes.

## 6

1       “(s) (1) It shall be unlawful for a person, other than  
2 a licensed importer, licensed manufacturer, or licensed dealer  
3 to purchase or receive a handgun from another person, other  
4 than a licensed importer, licensed manufacturer, or licensed  
5 dealer if the transferee willfully fails to obtain a criminal  
6 record form pursuant to the following procedures:

7           “(A) the transferee appears in person at the busi-  
8 ness premises of a licensed dealer in order to provide the  
9 sworn statement and suitable identification as would be  
10 required under subsection (r) if the licensed importer,  
11 licensed manufacturer, or licensed dealer were the  
12 transferor;

13           “(B) the licensed dealer has taken the steps pro-  
14 vided in subsection (r) to assure that the sale by the  
15 transferor is in accord with Federal, State, and local law;

16           “(C) the transferee has paid the licensed dealer a  
17 fee, not to exceed \$10, prescribed by the Secretary for  
18 the action taken by the licensed dealer;

19           “(D) the transferee has received, by mail or in  
20 person, two criminal record forms from the licensed  
21 dealer, as prescribed by the Secretary, indicating that the  
22 licensed dealer has not received information within the  
23 period prescribed in subsection (r) to indicate that the

## 7

1 transferee is prohibited from owning or possessing or  
2 purchasing a handgun under Federal, State, or local  
3 law;

4 “(E) the transferee has presented one criminal rec-  
5 ord form prescribed in subparagraph (D) to the trans-  
6 feror prior to transfer of the handgun; and

7 “(F) the transferee has retained the other criminal  
8 record form as verification of compliance with this sub-  
9 section. The provisions of this subsection shall not apply  
10 to the loan or rental of a handgun for temporary use for  
11 lawful sporting purposes; or the sale, delivery, purchase,  
12 or receipt between immediate family members.

13 “(2) It shall be unlawful for a person, other than a  
14 licensed importer, licensed manufacturer, or licensed dealer,  
15 to sell or transfer a handgun to another person, other than a  
16 licensed importer, licensed manufacturer, or licensed dealer  
17 if the transferor willfully fails to require that—

18 “(A) the transferee first presents a signed certifi-  
19 cate from a licensed dealer, pursuant to the provisions of  
20 subsection (1) (E) of this subsection, to the transferor,  
21 stating that the transferee is not prohibited from owning,  
22 possessing, or purchasing a handgun under Federal,  
23 State, or local law.

## 8

1       “(t) The Federal Bureau of Investigation, and the  
2 Bureau of Alcohol, Tobacco and Firearms shall not retain  
3 the record of any name or address if such record was obtained  
4 solely pursuant to requests provided for in subsections (r)  
5 and (s), unless the crime check revealed that the transferee’s  
6 sworn statement was perjurious or false.

7       “(u) (1) It shall be unlawful for any licensed importer,  
8 licensed manufacturer, licensed dealer, or licensed collector  
9 to sell or transfer two or more handguns to the same person,  
10 other than another licensed importer, licensed manufacturer,  
11 licensed dealer, or licensed collector, in the same calendar  
12 year, unless the transferee has obtained prior approval of the  
13 purchase from the Secretary. The Secretary shall issue regula-  
14 tions providing for an exception, in such situations as the  
15 theft, loss, or permanent malfunction of a handgun.

16       “(2) It shall be unlawful for any person, other than a  
17 licensed importer, licensed manufacturer, licensed dealer,  
18 or licensed collector to purchase or receive two or more hand-  
19 guns in the same calendar year unless the person has obtained  
20 prior approval of the purchase from the Secretary. The Secre-  
21 tary shall issue regulations providing for an exception in  
22 such situations as the theft, loss, or permanent malfunction of  
23 a handgun, or the receipt of a handgun from a member of  
24 the transferee’s immediate family.

25       “(v) It shall be unlawful for any person, other than a



## 9

1 licensed importer, licensed manufacturer, or licensed dealer,  
2 who purchases or receives a handgun with the purpose of  
3 selling or transferring that handgun to another person to sell  
4 or transfer that handgun to another person unless it is known,  
5 or there is reasonable cause to believe, that transfer or posses-  
6 sion of the handgun would be in accordance with Federal  
7 law and with State law and any published ordinance applica-  
8 ble at the place of sale, delivery, or other disposition.

9       “(w) It shall be unlawful for any person to sell or  
10 transfer any firearms or ammunition to any person who the  
11 transferor knows or has reasonable cause to believe is pro-  
12 hibited from shipping, transporting, or receiving a firearm or  
13 ammunition under subsection (g) or (h) of this section.”.

NOVEMBER 24, 1975.

HON. EDWARD M. KENNEDY,  
*U.S. Senate,*  
*Washington, D.C.*

DEAR TED: A meeting of the Subcommittee to Investigate Juvenile Delinquency will be held on Monday, December 1, 1975, at 1:30 p.m., in room 2300, Dirksen Office Building. At that time we will consider firearms bills pending before the Subcommittee, and any amendments which the members of the Subcommittee may propose.

I have enclosed for your review a copy of the clean bill which I propose for Subcommittee action, as well as explanatory materials.

As you know, the Subcommittee has held a total of 46 days of hearings since 1963 on various firearms proposals, taking testimony from over 200 witnesses. This year the Subcommittee has held 3 days of hearings, taking testimony from 13 witnesses. The Subcommittee has printed over 5,000 pages of hearing testimony over these past 12 years.

I wish to thank you for the interest you have shown during the course of these legislative hearings. I am optimistic that the 94th Congress will make progress in this vital area.

If you have any questions regarding these materials please do not hesitate to call me or John M. Rector, my Staff Director and Chief Counsel of the Subcommittee at x42951.

With warm personal regards.

Sincerely,

BIRCH BAYH,  
*Chairman.*

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MEMORANDUM

To: Members of the Subcommittee to Investigate Juvenile Delinquency.

From: Birch Bayh, Chairman.

Date: November 24, 1975.

Re: New Handgun Proposal.

For more than a decade this Subcommittee has conducted extensive investigations on a broad range of proposed firearms legislation. These efforts led to the passage of the Gun Control Act of 1968, which was written and developed by the Subcommittee.

These earlier efforts, from 1963-1968, established that the availability of foreign made, easily concealable, often inexpensive handguns, with no legitimate sporting purposes, constituted a serious threat to law enforcement, to the public safety and welfare, and to the integrity of state firearms control laws. That Act banned their importation.

It soon became apparent, however, that Congressional intent was effectively circumvented by enterprising firms in the United States that flooded the market with the very crime guns whose availability Congress had intended to curtail by the 1968 ban on non-sporting imports. In 1972 the Senate, by a vote of 68-25, passed by bill to apply to all commercial handgun sales the criteria applied only to imported handguns. The House failed to act on this measure. As a consequence the Subcommittee's 1968 findings regarding the availability of these crime guns are unfortunately still valid today.

What follows is a succinct explanation of the measure I intend to offer for consideration at next Monday's Subcommittee meeting.

In addition to provisions addressing the problem of non-sporting handguns, including those commonly referred to as "Saturday Night Specials", this bill incorporates important provisions aimed at curbing criminal access to handguns and reducing illicit commerce in handguns. It includes several of President Ford's recommendations which have been refined during the course of our recent study.

It is not everything some would want. It is far more than others are prepared to accept. I believe, however, that it is sound and workable legislation and that in spite of last week's vote (5-1) against banning non-sporting handguns by the House Subcommittee on Crime, we can and must address the ever-escalating problem of handgun violence.

*Title I*

This title encompasses Congressional findings and purposes. Since the passage of the Gun Control Act in 1968 both the availability of non-sporting, easily con-

cealable handguns and the increasing illicit trade in handguns have combined to defeat the purpose of the Act. This legislation is designed to prevent such circumvention of the intent of Congress.

## *Title II*

This title contains a series of measures designed to strengthen the 1968 Gun Control Act, eliminate several loopholes in existing law and tighten control of handgun sales to help insure that these weapons are not being purchased by felons or other persons currently prohibited by law from buying or carrying a handgun. The following significant provisions are continued in this title:

### *A. Ban on Commercial Sale of Non-Sporting Handguns. (§§ 204, 207-10 and 213)*

The Handgun Crime Control Act would prohibit the commercial sale of non-sporting handguns. It would accomplish this goal by applying within sixty days of enactment, the criteria presently used to evaluate and restrict imported handguns to over-the-counter sales of all handguns manufactured or assembled domestically. The Secretary of the Treasury would be required to promptly test any handgun or handgun model submitted for testing and to evaluate that handgun against a specific set of factoring criteria incorporated in the bill. The Secretary is allowed no person discretion as to the results of such testing; if the handgun meets the requirements the Secretary must approve the continued commercial sale of the handgun and if the handgun fails to meet the sporting purposes test, future sale would be prohibited. The bill also provides for an administrative and judicial review procedure for persons aggrieved by the results of a handgun test.

The criteria used as well as the testing and review procedure are similar to the proposals made in this regard in the President's bill. However, the President has recommended that handguns which have failed to meet the sporting purposes test should not be sold or transferred through either private or commercial sales, while this bill would only restrict the future commercial sale of non-sporting handguns. In order to avoid circumvention the bill contains provisions similar to those in the National Firearms Act regarding sawed-off shotguns which make unlawful the modification of a handgun so as to produce a weapon that could not be commercially sold.

According to testimony of Treasury Department officials at our Subcommittee hearings, approximately 54 percent of handguns currently being manufactured would fail to meet the criteria contained in this bill. Because of the ease with which these non-sporting weapons can be concealed they are the favorite of criminals and in fact, are used in more than 75 percent of handgun crimes.

Additionally, the bill incorporates several exemptions from the prohibitions against commercial sale and delivery of non-sporting handguns for law enforcement officers, governments, research organizations and licensed collectors. Although this legislation contains no provisions which would allow the government to confiscate any handgun, it does permit individuals who wish to dispose of non-sporting handguns to receive reasonable compensation for them.

### *B. Waiting Period (§ 207)*

The 1968 Act made the purchase of handguns by persons such as felons, mental incompetents, drug addicts and fugitives unlawful. To carry out this prohibition it is currently required that purchasers (transferees) must swear by affidavit that they are not members of the prohibited groups. Unfortunately, many have found it easy to circumvent Congressional intent by simply filing out a false affidavit. Special Treasury Department studies have found that in excess of 10 percent of those purchasing handguns commercially have arrest records and an astonishing 3 percent are actually convicted felons. There are indications that even a higher number of felons purchase handguns through private transactions. Unfortunately, no figures are available on the number of drug addicts or members of other prohibited groups that purchase handguns illegally.

In order to prevent such criminal access to handguns the bill establishes a waiting period of 18 days between purchase and receipt of a handgun by transferees. Under this procedure the licensed dealer must submit a criminal records check form to the appropriate local authorities and the FBI. If the required FBI check reveals that the potential purchaser is prohibited under law from making such purchase the licensed dealer would be informed by Treasury officials. If within 18 days the dealer has not received information from the authorities which



would indicate that the potential transferee is prohibited from making the purchase, the dealer may complete the transaction.

Additionally, to help assure that individuals are not unsuspectingly selling handguns to felons and other prohibited persons, the bill requires a criminal records check for private handgun sales and provides a minimum fee to meet the cost of these procedures.

The President also proposed a waiting period concept. This bill improves his original proposal by mandating, rather than merely permitting, an FBI criminal record check. The bill does not establish a centralized information center for transferred handguns but does contain protections against the retention of the name or address of any handgun transferee.

### *C. Illicit Handgun Traffic (§§ 203 and 206)*

Our hearings have shown that each year thousands of handguns are obtained through illicit commerce. Under current law a person can lawfully purchase unlimited numbers of handguns, can lawfully sell handguns to felons and can successfully circumvent the law by acting as a "go-between" for felons wishing to purchase handguns commercially.

One noteworthy and illustrative case revealed in testimony involved a Philadelphian who purchased 136 handguns from a Federally licensed dealer in seven months and in turn sold them out of the trunk of his car. This bill would curb such abuses by limiting handgun purchases. With appropriate exceptions for family members, collectors, law enforcement, military and security personnel, as well as situations involving the loss, theft or malfunction of a handgun a person would be limited to purchasing two handguns annually. The bill would also make knowing sales of handguns to felons illegal and would prohibit the purchase of a handgun with the intent to transfer it to another person if the transferee was a member of a group currently banned from purchasing handguns. Additionally, the bill addresses the problem raised in the case of *United States v. Bass* 404 U.S. 336 (1971) by clarifying Congressional intent to make the simple possession of firearms by felons and other prohibited persons illegal without a specific showing that such possession was in, or affecting, interstate commerce.

The President has recommended similar provisions concerning the *Bass* problem, multiple purchases, sales to felons and "go-between" transactions.

### *Title III*

This title contains provisions designed to make our streets safer by treating those who use firearms in the commission of a felony as the serious violators they are by imposing additional mandatory minimum sentences of 5 to 15 years. The bill allows a judge to waive this sentence for the first such offense only when the judge specifically includes those situations in the court record. If the offense is committed again there could be no waiver of the sentence under any circumstances. Cases involving the use of a firearm to commit a felony are given priority on court dockets.

The bill also contains mandatory sentences for dealers who violate current law by knowingly selling firearms to felons or persons residing in a state other than the one in which the dealer does business and also includes mandatory sentencing for dealers who sell non-sporting handguns. In addition, dealers are required to make reports to the Secretary concerning any thefts or losses of handguns from their places of business and requires manufacturers to submit annual reports on the amount and type of handguns being manufactured.

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### STATEMENT OF SENATOR BIRCH BAYH, SUBCOMMITTEE MEETING ON FIREARMS LEGISLATION, DECEMBER 1, 1975

Today the Subcommittee to Investigate Juvenile Delinquency, of which I Chair, will meet to consider handgun crime control legislation which has been the subject of the hearings and investigation we renewed last spring.

This is not the first time that the Subcommittee has been requested to address this vitally important and equally controversial subject.

The measure I am sponsoring would prohibit the commercial sale of all non-sporting handguns, including those commonly referred to as "Saturday Night Specials". According to Treasury officials substantially more than 75 percent of the handguns used in crime would be prohibited under my bill.

I am extremely disappointed that the House Subcommittee on Crime refused to incorporate such a significant provision in the bill it reported last week. I am hopeful, however, that under the leadership of Chairman Rodino the parent Judiciary Committee will recognize the undeniable relationship between the availability of non-sporting handguns and our nation's tragic, but ever-escalating roster of crime victims.

Serious crime in the United States jumped 17 percent in 1973, in fact, this was until the release of last year's startling figures, the highest annual increase since the FBI began collecting crime data more than five decades ago. Last week we learned that the record-breaking trend is continuing and on the upswing with an additional 18 percent increase amounting to more than 10,000,000 crimes reported.

Since 1969 violent crime is up 45 percent. In 1974 criminals struck 19 times a minute taking 20,600 lives. More than half of these victims had been confronted by assailants wielding handguns.

My "Handgun Crime Control Act" addresses most of the problems involving handgun violence. In addition to the ban on the crime guns, it provides increased penalties for those convicted of using guns in crimes; it prohibits the modification of handguns so as to circumvent the ban; it requires that lost or stolen handguns be reported; it provides increased penalties for "gun-runners"; and it requires that cases involving the use of handguns be handled expeditiously by the courts.

Additionally it provides the following law enforcement tools:

*Waiting period.* To help assure that individuals and dealers are not unsuspectingly selling handguns to felons and other prohibited persons, this bill requires that the actual receipt of a handgun be delayed for a period of not more than eighteen days during which time Federal and local authorities will conduct a crime records check.

*Multiple Handgun Purchases.* In order to prohibit high volume illegal handgun traffic this bill would not permit the purchase of more than two handguns each year except for extraordinary circumstances, such as those involving the loss, theft or permanent malfunction of a handgun.

*Sale to Felons.* Under current law it is not illegal for a private person to sell handguns to felons and other prohibited persons. To plug this loophole this bill prohibits such intentional sales.

*Go-Between.* The intermediate purchaser is frequently a vital link in the chain of illicit handgun traffic. Without strong evidence of conspiracy such persons currently are not successfully prosecuted. This bill cures this defect by making such specific conduct a violation of the 1968 Gun Control Act.

In 1972, the Senate by a vote of 68-25, supported a ban on non-sporting handguns. That measure, unfortunately, died in the House of Representatives. Despite such past and present reluctance we can and we must address the serious problem of handgun violence.

My bill is not everything some would want. It is far more than others are prepared to accept. I believe, however, that my approach represents a workable measure which can pass the Congress can become law and will save lives and reduce crime.

---

#### STATEMENT OF SENATOR BIRCH BAYH

WASHINGTON, D.C., Dec. 1, 1975.

The Senate Subcommittee to Investigate Juvenile Delinquency, headed by Senator Birch Bayh (D.-Ind.) today passed and reported out to the full Judiciary Committee the Handgun Crime Control Act authored by Senator Bayh.

"This measure I am sponsoring would prohibit the commercial sale of all easily concealable, nonsporting handguns, including those commonly referred to as "Saturday Night Specials," Bayh said in an opening statement to the subcommittee. "According to Treasury officials, substantially more than 75 percent of the handguns used in crime would be prohibited under my bill."

In addition to the ban on Saturday Night Specials, the Bayh bill provides increased penalties for those convicted of using guns in crimes; it prohibits the modification of handguns in order to circumvent the ban; it requires lost or stolen handguns be reported; it provides increased penalties for gun runners; and it requires that cases involving handguns be handled expeditiously by the courts.



Bayh's bill would also provide the following law enforcement tools:

*Waiting period.*—To help assure that individuals and dealers are not unsuspectingly selling handguns to felons and other prohibited persons, the bill requires that receipt of a handgun be delayed for up to 18 days to allow Federal and local authorities to conduct a crime records check.

*Multiple handgun purchases.*—In order to prohibit high volume illegal handgun traffic the bill would not permit the purchase of more than two handguns per year except in extraordinary circumstances.

*Sale to felons.*—The bill would plug a loophole in existing law and make it illegal to intentionally sell handguns to felons and other prohibited persons. In 1974 alone handguns were sold to an estimated 78,000 convicted felons.

*Go-Between.*—The intermediate purchaser is frequently a vital link in the chain of illicit handgun traffic. Without strong evidence of conspiracy such persons currently are not successfully prosecuted. This bill would cure this defect by making such specific conduct a violation of the 1968 Gun Control Act.

Bayh pointed out that serious crime in the United States jumped 17 percent in 1973 and another 18 percent in 1974. In 1974 criminals struck 19 times a minute taking 20,600 lives, Bayh added, with more than half of these victims having been confronted by assailants wielding handguns.

"I am extremely disappointed that the House Subcommittee on Crime refused to incorporate such a significant provision in the bill it reported last week," Bayh said. "I am hopeful, however, that under the leadership of Chairman Rodino the parent Judiciary Committee will recognize the undeniable relationship between the availability of nonsporting handguns and our Nation's tragic, but ever-escalating roster of crime victims."

Bayh also noted that in 1972 the Senate by a vote of 68-25, supported a ban on nonsporting handguns. "That measure, unfortunately, died in the House of Representatives. Despite such past and present reluctance we can and we must address the serious problem of handgun violence," Bayh said.

"By bill is not everything some would want. It is far more than others are prepared to accept. I believe, however, that my approach represents a workable measure which can pass the Congress, can become law, and will save lives and reduce crime."



## 2

1       sporting handguns is intimately related to such violent  
2       crime;

3               (3) the personal safety of the President is seriously  
4       threatened by potential assassins armed with such non-  
5       sporting handguns;

6               (4) increased illicit commerce in handguns is re-  
7       lated to rapidly increasing crime rates;

8               (5) convicted felons, mental incompetents, and  
9       other persons disqualified under present law from pur-  
10      chasing handguns nevertheless have substantial access  
11      to handguns through both commercial and private sales;

12              (6) the absence of procedures which would allow  
13      law enforcement officers to determine whether a poten-  
14      tial handgun recipient is a convicted felon permits sub-  
15      stantial access to handguns by such felons and sub-  
16      sequently contributes to the increasing crime rates;

17              (7) the establishment of a waiting period procedure  
18      prior to the acquisition of a handgun would allow law-  
19      abiding citizens and law enforcement officials to insure  
20      that the potential handgun recipient is not a convicted  
21      felon; and

22              (8) handgun acquisition, use, and possession by  
23      convicted felons, mental incompetents, and other persons  
24      disqualified under present law from purchasing or trans-  
25      porting handguns directly affects and burdens interstate

## 3

1 commerce even when such acquisition, use, and posses-  
 2 sion is purely intrastate in character.

3 PURPOSE

4 SEC. 102. It is the purpose of this Act—

5 (1) to assist law enforcement officials to more  
 6 effectively curb violent crime and to facilitate the pros-  
 7 ecution of offenses committed with firearms;

8 (2) to prohibit the commercial sale of small easily  
 9 concealable, usually inexpensive, nonsporting handguns  
 10 except for law enforcement officers, governments, and  
 11 research organizations;

12 (3) to provide additional law enforcement tools  
 13 to help insure that law-abiding citizens are not unwit-  
 14 tingly selling handguns to convicted felons; and

15 (4) to provide additional means to facilitate the  
 16 prosecution of those persons knowingly selling hand-  
 17 guns to felons or otherwise engaged in illicit firearm  
 18 traffic.

19 TITLE II—HANDGUN CRIME

20 SEC. 201. Section 921 (a) of title 18 of the United  
 21 States Code is amended by—

22 (a) striking out at the end of section 921 (a) (13)  
 23 the period and inserting in lieu thereof the following:  
 24 “, except that for purposes of section 922 (a) (7) and  
 25 922 (t) of this chapter the term licensed collector shall

1       also mean a person who acquires, holds, or disposes of  
2       handguns as a member of a recognized organization or  
3       society of firearm collectors and who has obtained a col-  
4       lector's license pursuant to this chapter.”.

5       SEC. 202. Section 921 (a) of title 18 of the United  
6 States Code is amended by inserting after paragraph (20)  
7 the following:

8       “(21) The term ‘handgun’ means a firearm designed to  
9 be fired by the use of a single hand. The term also includes  
10 a combination of parts in the possession or under the control  
11 of a person from which a handgun can be assembled. The  
12 term does not include antique firearms.

13       “(22) The term ‘handgun model’ means a handgun of  
14 a particular design, specification, and designation.

15       “(23) The term ‘immediate family’ means a spouse  
16 or direct lineal descendants (including adopted children)  
17 and ascendants and their spouses.”.

18       SEC. 203. Section 922 (a) of title 18 of the United  
19 States Code is amended by inserting after paragraph (6)  
20 the following:

21       “(7) for any person, other than a licensed importer,  
22 licensed manufacturer, licensed dealer, or licensed col-  
23 lector to purchase or receive three or more handguns in  
24 the same twelve-month period unless the person has  
25 obtained prior approval of the purchase from the Sec-



## 5

1       retary. The Secretary shall issue regulations providing  
2       for approval in such situations as, but not limited to, the  
3       theft, loss, or permanent malfunction of a handgun, or  
4       a private professional service authorized by the State to  
5       provide armed security guards or detectives for hire.  
6       Section 922 (a) (7) shall not apply to the purchase or  
7       receipt of a handgun from a member of the transferee's  
8       immediate family;

9           “(8) for any person other than a licensed importer,  
10       licensed manufacturer, or licensed dealer, who purchases  
11       or receives a handgun with the purpose of selling or  
12       transferring that handgun to another person to sell or  
13       transfer that handgun to another person unless the trans-  
14       feror knows or has reasonable cause to believe that the  
15       transfer and possession of the handgun by the transferee  
16       would be in accordance with Federal law, State law, and  
17       any published ordinance applicable at the place of sale,  
18       delivery, or other disposition; and

19           “(9) for any person to sell or transfer any firearm  
20       or ammunition to any person who the transferor knows  
21       or has reasonable cause to believe is prohibited from  
22       possessing, shipping, transporting, or receiving a firearm  
23       or ammunition under subsections (f) or (l) of this  
24       section. Section 922 (a) (9) shall not apply with respect  
25       to the sale or disposition of a firearm or ammunition

## 6

1 to a licensed importer, licensed manufacturer, licensed  
2 dealer, or licensed collector who pursuant to subsection  
3 (b) of section 925 of this chapter is not precluded  
4 from dealing in firearms.”,

5 SEC. 204. Section 922 (b) of title 18 of the United  
6 States Code is amended by—

7 (a) striking out at the end of paragraph (4)  
8 thereof the word “and”;

9 (b) striking out at the end of paragraph (5)  
10 thereof the period and inserting in lieu thereof a semi-  
11 colon;

12 (c) adding after paragraph (5) thereof the fol-  
13 lowing:

14 “(6) any handgun model unless such handgun  
15 model has been approved by the Secretary pursuant to  
16 section 922 (m) of this title”; and

17 (d) deleting the final sentence, which begins with  
18 the words “Paragraph (4) of this”, and inserting in  
19 lieu thereof the following:

20 “Paragraph (4) and (6) of this subsection shall not apply  
21 to a sale or delivery to any research organization designated  
22 by the Secretary. Paragraph (6) of this subsection shall not  
23 apply to the sale or delivery of any firearm to the United  
24 States or any department or agency thereof, or to any State,  
25 department, agency, or political subdivision thereof, or any

1 duly commissioned law enforcement officer of the United  
2 States or any department or agency thereof or of any State,  
3 department, agency, or political subdivisions thereof (in-  
4 cluding but not limited to members of the Armed Forces  
5 and police officers) properly authorized to carry such fire-  
6 arms in an official capacity. Paragraph (6) of this sub-  
7 section shall not apply to the sale or delivery by a licensed  
8 importer, licensed manufacturer, or licensed dealer to a  
9 licensed dealer of any firearm intended to be sold or delivered  
10 to any government or agency thereof or person entitled  
11 pursuant to this paragraph to have such firearms sold or  
12 delivered. Paragraph (6) of this subsection shall not apply  
13 to the sale or delivery to a licensed collector or licensed  
14 dealer of any firearm which is a curio or relic, as the  
15 Secretary shall by regulation define. Paragraph (6) of this  
16 subsection shall not apply to occasional, sporadic sales of  
17 single handguns by a licensed collector to a licensed collector  
18 who is not a dealer, as defined by section 921 (a) of this  
19 title.”.

20 SEC. 205. Section 922 (c) (1) of title 18 of the United  
21 States Code is amended by deleting the words “, in the case  
22 of any firearm other than a shotgun or rifle, I am twenty-one  
23 years or more of age, or that, in the case of a shotgun or  
24 a rifle,”.

1        SEC. 206. Section 922 of title 18 of the United States  
2 Code is amended by—

3            (a) repealing subsections (d) and (g) ;

4            (b) redesignating subsections (e), (f), (h), (i),  
5            (j), (k), (l), and (m) as subsections (d), (e), (f),  
6            (g), (h), (i), (j), and (k) respectively;

7            (c) deleting “drug (as defined in section 201 (v)  
8            of the Federal Food, Drug, and Cosmetic Act)” in re-  
9            designated subsection (f) (3) and inserting in lieu  
10           thereof “substance”;

11           (d) deleting “(as defined in section 4731 (a) of  
12           the Internal Revenue Code of 1954) ; or” in redesign-  
13           ated subsection (f) (3) and inserting in lieu thereof  
14           “as those terms are defined in section 102 of the Con-  
15           trolled Substances Act (21 U.S.C. 802).”;

16           (e) amending redesignated subsection (f) (4) to  
17           read as follows:

18           “(4) who has been adjudicated as mentally incom-  
19           petent or has been committed to a mental institution;  
20           or”;

21           (f) by deleting “to receive any firearm or ammuni-  
22           tion which has been shipped or transported in interstate  
23           or foreign commerce” in redesignated subsection (f)  
24           and inserting in lieu thereof the following:

1           “(5) who, being an alien, is illegally or unlawfully  
2       in the United States;  
3       to possess, ship, transport, or receive any firearm or ammuni-  
4       tion.”; and

5           (g) adding after redesignated subsection (k) the  
6       following new subsection:

7           “(1) it shall be unlawful for any person who while  
8       being employed by a person who is prohibited from  
9       possessing, shipping, transporting, or receiving firearms  
10      or ammunition under subsections (f) (1), (2), and  
11      (5) and who, knowing or having reasonable cause to  
12      believe that the employer falls within one of the classifica-  
13      tions enumerated in subsections (f) (1), (2), and (5),  
14      in the course of such employment to possess any firearm  
15      or ammunition.”.

16       SEC. 207. Section 922 of title 18 of the United States  
17       Code is amended by adding after subsection (l) the follow-  
18       ing new subsections:

19       “(m) The Secretary shall not approve for sale or  
20       delivery by a licensed dealer, licensed importer, licensed  
21       manufacturer, or licensed collector any handgun model unless  
22       the Secretary has caused to be evaluated and tested repre-  
23       sentative samples of such handgun model and has found  
24       that—



## 10

1           “(1) in the case of a pistol, the handgun model—

2           “(A) has a positive manually operated safety

3           device; and

4           “(B) has a combined length and height in

5           excess of ten inches with the height (right angle

6           measurement to the barrel without the magazine

7           or extension) being at least four inches and the

8           length being at least six inches; and

9           “(C) attains a total of at least seventy-five  
10          points under the following criteria:

11          “(i) Overall length: one point for each  
12          one-fourth inch over six inches;

13          “(ii) Frame construction: (a) fifteen  
14          points if investment cast steel or forged steel,  
15          (b) twenty points if investment cast HTS alloy  
16          or forged HTS alloy;

17          “(iii) Pistol weight: one point for each  
18          ounce, with the pistol unloaded and the maga-  
19          zine in place;

20          “(iv) Caliber: (a) zero points if the pistol  
21          accepts only .22 caliber short or .25 caliber  
22          automatic ammunition, (b) three points if the  
23          pistol accepts either .22 caliber long rifle am-  
24          munition or any ammunition within the range  
25          delimited by 7.65 millimeter and .380 caliber

## 11

1           automatic, (c) ten points if the pistol accepts  
2           9 millimeter parabellum ammunition or over,  
3           (d) in the case of ammunition not falling within  
4           one of the classes listed above, such number of  
5           points no greater than ten (following the  
6           classification schedule above as nearly as is  
7           practicable) as the Secretary shall determine  
8           appropriate to the suitability for sporting pur-  
9           poses of handgun models designed for such  
10          ammunition;

11           “(v) Safety features: (a) five points if the  
12          pistol has a locked breech mechanism, (b) five  
13          points if the pistol has a loaded chamber indi-  
14          cator, (c) three points if the pistol has a grip  
15          safety, (d) five points if the pistol has a maga-  
16          zine safety, (e) ten points if the pistol has a  
17          firing pin block or lock; and

18           “(vi) Miscellaneous equipment: (a) two  
19          points if the pistol has an external hammer, (b)  
20          ten points if the pistol has a double action firing  
21          mechanism, (c) five points if the pistol has a  
22          drift adjustable target sight, (d) ten points if  
23          the pistol has a click adjustable target sight,  
24          (e) five points if the pistol has target grips, (f)  
25          two points if the pistol has a target trigger; and

## 12

1 “(2) in the case of a revolver, the handgun model—  
2 “(A) has an overall frame length of four and  
3 one-half inches measured on a line parallel to the  
4 barrel; and

5 “(B) has a barrel length of at least three  
6 inches; and

7 “(C) has a safety device which, either (i)  
8 automatically in the case of a double action firing  
9 mechanism or (ii) by manual operation in the case  
10 of a single action firing mechanism, causes the ham-  
11 mer to retract to a point where the firing pin does  
12 not rest upon the primer of the cartridge. Once acti-  
13 vated, such safety device must be capable of with-  
14 standing the impact of a weight, equal to the weight  
15 of the revolver, dropped a total of five times from  
16 a height of thirty-six inches above the rear of the  
17 hammer spur onto the rear of the hammer spur  
18 with the revolver resting in a position such that the  
19 line of the barrel is perpendicular to the plane of  
20 the horizon; and

21 “(D) attains a total of at least forty-five points  
22 under the following criteria:

23 “(i) Barrel length: one-half point for each  
24 one-fourth inch that the barrel is longer than  
25 four inches;

1           “(ii) Frame construction: (a) fifteen  
2           points if investment cast steel or forged steel,  
3           (b) twenty points if investment cast HTS al-  
4           loy or forged HTS alloy;

5           “(iii) Revolver weight: one point for each  
6           ounce with the revolver unloaded;

7           “(iv) Caliber: (a) zero points if the re-  
8           volver accepts only .22 caliber short or .25  
9           caliber ACP, (b) three points if the revolver  
10          accepts .22 caliber long rifle or ammunition  
11          in the range between .30 caliber and .38 S&W,  
12          (c) four points if the revolver accepts .38 cali-  
13          ber special ammunition, (d) five points if the  
14          revolver accepts .357 magnum or over, (e)  
15          in the case of ammunition not falling within one  
16          of the classes listed above, such number of  
17          points not greater than five (following the clas-  
18          sification schedule above as nearly as practi-  
19          cable) as the Secretary shall determine appro-  
20          priate to the suitability for sporting purposes  
21          of handgun models designed for such ammuni-  
22          tion; and

23          “(v) Miscellaneous equipment: (a) five  
24          points if the revolver has either drift or click  
25          adjustable target sights, (b) five points if the

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1 revolver has target grips, (c) five points if the  
2 revolver has a target hammer and a target  
3 trigger.

4 “(n) It shall be unlawful for any person to reduce  
5 the length of the barrel or the overall length of a handgun  
6 previously approved by the Secretary for sale and delivery  
7 if as a result of such modification the handgun no longer  
8 meets the standards for approval set forth in subsection (m)  
9 of this section.

10 “(o) The Secretary shall promptly test samples of hand-  
11 gun models submitted for testing pursuant to subsection (m)  
12 of this section and shall give written notification of the results  
13 of that evaluation to the person submitting such sample. If  
14 any handgun model fails to meet the standards for approval,  
15 the Secretary’s notification shall state specifically the reasons  
16 for such finding. Any such notification of approval or failure  
17 shall be published in the Federal Register, and a notice of  
18 approval shall fulfill the requirements of section 922 (b) (6)  
19 unless and until such notice of approval is modified or  
20 revoked by the Secretary. At least once each year the  
21 Secretary shall compile a list of all handgun models which  
22 are then approved for sale or delivery under subsection (m)  
23 of this section, which list shall be published in the Federal  
24 Register and furnished annually to each licensee under this  
25 chapter.



## 15

1       “(p) Any person submitting a handgun model to the  
2 Secretary for evaluation who is aggrieved by the results of  
3 that evaluation shall have ten days from receipt of notifica-  
4 tion of such results to submit in writing specific objections  
5 to the findings of the Secretary and a request for retesting  
6 such model, together with any justification thereof. Upon  
7 receipt of such a request the Secretary shall promptly ar-  
8 range for retesting and thereafter notify the aggrieved party  
9 of the results, if the Secretary determines sufficient justifica-  
10 tion for retesting exists. Should the Secretary determine that  
11 retesting is not warranted, the Secretary shall promptly  
12 notify the aggrieved party as to such determination. In the  
13 event that upon retesting the Secretary’s finding remains ad-  
14 verse, or that the Secretary finds retesting is not warranted,  
15 the aggrieved party may within sixty days after the date  
16 of the Secretary’s notice of such finding file a petition in  
17 the United States district court in the district in which the  
18 aggrieved party has its principal place of business or prin-  
19 cipal residence in order to obtain judicial review of such find-  
20 ing. Such review will be in accordance with the provision  
21 of section 706 of title 5, United States Code.

22       “(q) It shall be unlawful for a licensed importer,  
23 licensed manufacturer, licensed dealer, or licensed collector  
24 to sell or transfer a handgun to a person, other than a licensed  
25 importer, licensed manufacturer, licensed dealer, or licensed

1 collector unless the transferee appears in person at the place  
2 of business of the licensed importer, licensed manufacturer,  
3 or licensed dealer and—

4 “(1) the licensed dealer receives from the trans-  
5 feree a sworn statement in a form to be determined by  
6 the Secretary and stating the name, place of residence,  
7 birth date, and birthplace of the transferee as well as  
8 the jurisdiction (local), other than the transferee's  
9 residence, where the transferee intends to maintain the  
10 handgun. The statement shall indicate whether the trans-  
11 feree is entitled to receive and maintain the handgun  
12 under applicable Federal law, State law, and published  
13 ordinance applicable in the jurisdiction where the resi-  
14 dence is maintained or where the handgun will be  
15 maintained;

16 “(2) the licensed dealer receives from the trans-  
17 feree a statement indicating the name and address of  
18 the chief law enforcement officer for the jurisdiction of  
19 the transferee's residence and the jurisdiction where the  
20 handgun is to be maintained;

21 “(3) the licensed dealer receives from the trans-  
22 feree a true copy of any permit or license required  
23 by any State law or published ordinance applicable in  
24 the jurisdiction of the transferee's residence or in the  
25 jurisdiction where the handgun will be maintained, as

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1 well as a sworn statement containing any information  
2 required by a State law or published ordinance appli-  
3 cable to the transferee;

4 “(4) the licensed dealer receives from the trans-  
5 feree identification sufficient to establish reasonable  
6 grounds to believe that the transferee is the person  
7 claimed to be, and that the residence is at the address  
8 stated in the transferee’s sworn statement;

9 “(5) the licensed dealer has, prior to delivery of  
10 the handgun, forwarded by registered or certified mail  
11 (return receipt requested) —

12 “(A) to the chief law enforcement officer of the  
13 jurisdiction of residence of the transferee and to the  
14 chief law enforcement officer of any other jurisdic-  
15 tion where the transferee indicates in the sworn  
16 statement that the handgun will be kept—

17 “(i) a copy of the sworn statement, in a  
18 form prescribed by the Secretary; and

19 “(ii) a request that the officers verify the  
20 identity and State and local record of the trans-  
21 feree, to determine whether the ownership or  
22 possession of the handgun would be a violation  
23 of a Federal or State law or any published or-  
24 dinance of the jurisdiction of the transferee’s

residence or the jurisdiction where the handgun  
will be kept; and

“(B) to the Federal Bureau of Investigation—

“(i) a copy of the sworn statement in a  
form prescribed by the Secretary; and

“(ii) a request that the Federal Bureau of  
Investigation check the records of the Identifi-  
cation Division to determine whether those rec-  
ords indicate that the transferee is barred from  
owning or possessing a handgun under subsec-  
tion (f) of this section. The Federal Bureau of  
Investigation shall submit to the Bureau of Al-  
cohol, Tobacco and Firearms of the Department  
of Treasury, within five working days of the  
date of receipt of the request under this subsec-  
tion, the results of the record check. If the trans-  
feree is ineligible under Federal or State law or  
local ordinance the Bureau of Alcohol, Tobacco  
and Firearms shall, within five working days,  
notify the licensed dealer and the proper chief  
law enforcement officer (s) of such ineligibility;

“(6) the licensed dealer has received return receipts  
indicating that the copies of the statements were re-  
ceived or has had the statements returned as a result  
of the refusal of the addressee to accept the mailing;

1           “(7) the licensed dealer has either—

2           “(A) received reports from all law enforce-  
3           ment officers named in the statement as well as  
4           the Federal Bureau of Investigation stating that  
5           the records of the Federal Bureau of Investigation  
6           and of the law enforcement officers do not indicate  
7           that the transferee is prohibited from owning or  
8           possessing a handgun; or

9           “(B) waited eighteen days (excluding Satur-  
10          days, Sundays, and legal holidays) from the time  
11          that the licensed dealer forwarded all materials  
12          required to be submitted to law enforcement officers  
13          and has received all information required from the  
14          transferee.

15          The provisions of subsection (q) shall not apply to the  
16          loan or rental of a handgun to any person for temporary  
17          use for lawful sporting purposes.

18          “(r) (1) It shall be unlawful for a person, other than  
19          a licensed importer, licensed manufacturer, licensed dealer,  
20          or licensed collector to purchase or receive a handgun from  
21          another person, other than a licensed importer, licensed  
22          manufacturer, licensed dealer, or licensed collector if the  
23          transferee willfully fails to obtain a criminal record form  
24          pursuant to the following procedures:



1           “(A) the transferee appears in person at the busi-  
2       ness premises of a licensed dealer in order to provide  
3       the sworn statement and suitable identification as would  
4       be required under subsection (q) if the licensed im-  
5       porter, licensed manufacturer, or licensed dealer were  
6       the transferor;

7           “(B) the licensed dealer has taken the steps pro-  
8       vided in subsection (q) to assure that the sale by the  
9       transferor is in accord with Federal, State, and local  
10      law;

11          “(C) the transferee has paid the licensed dealer  
12      a fee, not to exceed \$10, prescribed by the Secretary for  
13      the action taken by the licensed dealer;

14          “(D) the transferee has received, by mail or in  
15      person, two criminal record forms from the licensed  
16      dealer, as prescribed by the Secretary, indicating that the  
17      licensed dealer has not received information within the  
18      period prescribed in subsection (q) to indicate that the  
19      transferee is prohibited from owning or possessing or  
20      purchasing a handgun under Federal, State, or local  
21      law;

22          “(E) the transferee has presented one criminal  
23      record form prescribed in subparagraph (D) to the  
24      transferor prior to the transfer of the handgun; and

1           “(F) the transferee has retained the other criminal  
2       record form as verification of compliance with this sub-  
3       section.

4           “(2) It shall be unlawful for a person, other than a  
5       licensed importer, licensed manufacturer, licensed dealer, or  
6       licensed collector, to sell or transfer a handgun to another  
7       person, other than a licensed importer, licensed manufac-  
8       turer, licensed dealer, or licensed collector if the transferor  
9       willfully fails to require that the transferee first presents a  
10      criminal record form from a licensed dealer, pursuant to the  
11      provisions of subsection (1) (D) of this subsection, to the  
12      transferor, stating that the transferee is not prohibited from  
13      owning, possessing, or purchasing a handgun under Federal,  
14      State, or local law.

15          “(3) The provisions of subsection (r) shall not apply  
16      to the loan or rental of a handgun for temporary use for law-  
17      ful sporting purposes; or the sale, delivery, purchase, or re-  
18      ceipt of handguns between immediate family members.

19          “(s) The Federal Bureau of Investigation, and the  
20      Bureau of Alcohol, Tobacco and Firearms shall not retain  
21      the record of any name or address if such record was obtained  
22      solely pursuant to requests provided for in subsections (q)  
23      and (r), unless the crime check revealed that the trans-  
24      feree’s sworn statement was perjurious or false.

1       “(t) It shall be unlawful for any licensed importer,  
2 licensed manufacturer, licensed dealer, or licensed collector  
3 to sell or transfer three or more handguns to the same per-  
4 son, other than another licensed importer, licensed manu-  
5 facturer, licensed dealer, or licensed collector, in the same  
6 calendar year, unless the transferee has obtained prior ap-  
7 proval of the purchase from the Secretary. The Secretary  
8 shall issue regulations providing for approval in such situ-  
9 ations as, but not limited to, the theft, loss, or permanent  
10 malfunction of a handgun, or a private professional service  
11 authorized by the State to provide armed security guards  
12 or detectives for hire.”.

13       SEC. 208. Section 925 (d) (3) of title 18 of the United  
14 States Code is amended to read as follows:

15       “(3) is of a type that does not fall within the  
16 definition of a firearm as defined in section 5845 (a)  
17 of the Internal Revenue Code of 1954; is not a surplus  
18 military firearm; and if a handgun, has been approved  
19 by the Secretary pursuant to section 922 (m) of this  
20 title; or”.

21       SEC. 209. (a) Sections 926, 927, and 928 of title 18  
22 of the United States Code, and all references thereto, are  
23 redesignated as sections 927, 928, and 929, respectively.

1 (b) Title 18 of the United States Code is amended by  
2 inserting after section 925 the following new section:

3 “§ 926. Compensation for reasonable value of handguns  
4 voluntarily transferred to law enforcement  
5 agencies

6 “(a) A person may at any time transfer to any Federal,  
7 State, or local law enforcement agency designated by the  
8 Secretary any handguns owned or possessed by such person.

9 “(b) In the case of transfer pursuant to subsection (a)  
10 of a handgun model which the Secretary has evaluated and  
11 tested pursuant to section 922 (m) of this title and not  
12 approved for sale or delivery by a licensee under this chap-  
13 ter, the person transferring such handgun shall, upon proof  
14 that such handgun was manufactured prior to enactment of  
15 the Handgun Crime Control Act, and was lawfully acquired  
16 and lawfully owned, be entitled to receive from the United  
17 States a payment equal to the reasonable value of such  
18 handgun, such value to be determined as of the day before  
19 enactment of the Handgun Crime Control Act.”.

20 SEC. 210. Section 925 (a) of title 18, United States  
21 Code, is amended—

22 (a) by redesignating paragraph (5) as paragraph  
23 (6) ; and

1 (b) by inserting immediately after paragraph (4)  
2 the following new paragraph:

3 “(5) The provisions of this chapter shall not apply  
4 with respect to the sale, receipt, or delivery of any firearm  
5 to the United States or any department or agency thereof  
6 or to any State, department, agency, or political subdivision  
7 thereof or any duly commissioned law enforcement officer of  
8 the United States or any department or agency thereof or  
9 of any State, department, agency, or political subdivision  
10 thereof (including but not limited to members of the Armed  
11 Forces or police officers) properly authorized to carry such  
12 firearms in an official capacity. Nor shall this chapter apply  
13 with respect to the transportation, shipment, receipt, or im-  
14 portation of any lawfully acquired firearm or ammunition  
15 intended to be used solely for testing of any such firearm  
16 or ammunition for a professional journal or sporting maga-  
17 zine, pursuant to regulations issued by the Secretary of the  
18 Treasury. It shall be unlawful to use any such firearm for  
19 any purpose other than testing and evaluation.”.

20 SEC. 211. Section 925 of title 18, United States Code,  
21 is further amended by designating existing subsection “(c)”  
22 as subsection “(c) (1)” and adding a new paragraph to sub-  
23 section (c) as follows:

24 “(2) Any person who, having been adjudicated as men-



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1 tally incompetent, or who, having been committed to a men-  
2 tal institution, subsequently has been adjudicated by a court  
3 or other lawful authority to have been restored to mental  
4 competency, if such court or other lawful authority specifi-  
5 cally finds that the person is no longer suffering from a men-  
6 tal disorder and that the possession of a firearm by the person  
7 would not pose a danger to the person or to the person of  
8 another, shall be relieved from the disabilities imposed by  
9 this chapter with respect to the acquisition, receipt, transfer,  
10 shipment or possession of firearms incurred because of such  
11 adjudication or commitment.”.

12 SEC. 212. There are hereby authorized to be appro-  
13 priated such sums as may be necessary to effect the purposes  
14 of this Act.

15 SEC. 213. The provisions of this Act shall take effect  
16 immediately upon enactment, except that sections 204 and  
17 208 of this title shall take effect sixty days after the date of  
18 enactment, and that part of section 207 of this title which  
19 established new sections 922 (q) and (r) of title 18 of  
20 the United States Code shall take effect ninety days after  
21 the date of enactment.

22 SEC. 214. Title VII of the Omnibus Crime Control and  
23 Safe Streets Act of 1968 (18 U.S.C. appendix 1202-1203)  
24 is repealed.

1 TITLE III—MANDATORY PENALTIES FOR THE  
2 USE OF FIREARMS IN CRIME AND UNLAW-  
3 FUL FIREARM TRAFFIC CONTROL PROVI-  
4 SIONS

5 PENALTIES FOR FIREARM CRIME

6 SEC. 301. Section 924 (c) of title 18 of the United  
7 States Code is amended to read as follows:

8 “(c) (1) Whoever—

9 “(A) uses a firearm to commit any felony for which  
10 that person may be prosecuted in a court of the United  
11 States, or

12 “(B) carries a firearm unlawfully during the com-  
13 mission of any felony which threatens life or property  
14 for which that person may be prosecuted in a court of  
15 the United States,

16 may, in addition to the punishment provided for the com-  
17 mission of such felony, be sentenced to a term of imprison-  
18 ment for not less than five years or more than fifteen years.  
19 In any case in which such additional sentence is not imposed,  
20 the court shall state in writing its reasons for so deciding.  
21 The imposition or execution of such additional sentence if  
22 imposed shall not be suspended nor probation granted.

23 “(2) Whoever, after having been convicted of any  
24 such felony while so using or unlawfully carrying a firearm  
25 as provided in paragraph (1) of this subsection and is again

1 convicted of a second or subsequent offense involving the  
2 commission of a felony for which that person may be prose-  
3 cuted in a court of the United States while so using or  
4 unlawfully carrying a firearm as provided in paragraph (1)  
5 shall, in addition to the punishment provided for the com-  
6 mission of such felony, be sentenced to a term of imprison-  
7 ment for not less than five or more than fifteen years. The  
8 imposition or execution of such additional sentence shall not  
9 be suspended and probation shall not be granted.

10 “(3) In no case shall any additional term of imprison-  
11 ment imposed pursuant to this subsection run concurrently  
12 with any term of imprisonment imposed for the commission  
13 of any such felony.

14 “(4) A conviction shown on direct or collateral review  
15 to be invalid, or for which the defendant has been pardoned  
16 on the ground of innocence shall be disregarded for purposes  
17 of paragraph (2) of this subsection.”.

18 SEC. 302. Section 924 (a) of title 18 of the United  
19 States Code is amended to read as follows:

20 “(a) Whoever violates any provision of this chapter  
21 or knowingly makes any false statement or representation  
22 with respect to the information required by the provisions of  
23 this chapter to be kept in the records of a person licensed  
24 under this chapter, or in applying for any license or exemp-  
25 tion or relief from disability under the provisions of this

chapter, shall be fined not more than \$5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine: *Provided*, That in the case of any (a) person who violates section 922 (f) or section 922 (l) by possessing, shipping, transporting, or receiving any firearms or ammunition while that person is under indictment for, or has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; (b) licensed importer, licensed manufacturer, licensed dealer, or licensed collector who violates section 922 (a) (9) by selling or otherwise disposing of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person is under indictment for or has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; (c) licensed importer, licensed dealer, or licensed collector who violates section 922 (b) (3) by selling or delivering a firearm to any person not specifically exempted under subsection (A), (B), or (C) of that section who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located; (d) licensed importer, licensed manufacturer or licensed dealer who violates sec-

1 tion 922 (b) (6) by selling or delivering any handgun model  
2 not approved by the Secretary pursuant to section 922 (m) ;  
3 the court shall not suspend the sentence of such person or  
4 grant such person a probationary sentence.”.

5 SEC. 303. Section 923 (g) of title 18 of the United  
6 States Code is amended to read as follows:

7 “(g) Each licensed importer, licensed manufacturer,  
8 licensed dealer, and licensed collector shall maintain such  
9 records of importation, production, shipment, receipt, sale,  
10 or other disposition of firearms and ammunition at such  
11 place, for such period, and in such form as the Secretary  
12 may by regulations prescribe. Such importers, manufacturers,  
13 dealers, and collectors shall make such records available for  
14 inspection at all reasonable times, and shall submit to the  
15 Secretary such reports and information with respect to such  
16 records and the contents thereof as the Secretary shall by  
17 regulations prescribe: *Provided*, That each licensed importer,  
18 licensed manufacturer, licensed dealer, and licensed collector  
19 shall promptly report to the Secretary any loss of firearms  
20 or ammunition when such licensee shall have reasonable  
21 cause to believe that such loss was a result of theft. Such  
22 report shall include the amount of firearms or ammunition  
23 lost and the circumstances under which such loss took place:  
24 *Provided further*, That each licensed manufacturer shall pre-



1   pare a report of the number and type of handguns manu-  
2   factured each year and shall forward such reports to the  
3   Secretary. The Secretary may enter during business hours  
4   the premises (including places of storage) of any firearms  
5   or ammunition importer, manufacturer, dealer, or collector  
6   for the purpose of inspecting or examining (1) any records  
7   or documents required to be kept by such importer, manu-  
8   facturer, dealer, or collector under the provisions of this  
9   chapter or regulations issued under this chapter, and (2)  
10   any firearms or ammunition kept or stored by such importer,  
11   manufacturer, dealer, or collector at such premises. Upon the  
12   request of any State or any political subdivision thereof, the  
13   Secretary may make available to such State, or any political  
14   subdivision thereof, any information which the Secretary  
15   may obtain by reason of the provisions of this chapter with  
16   respect to the identification of persons within such State or  
17   political subdivision thereof, who have purchased or received  
18   firearms or ammunition, together with a description of such  
19   firearms or ammunition.”.

20       SEC. 304. Section 924 of title 18 of the United States  
21   Code is amended by adding at the end thereof the following  
22   new subsection:

23       “(e) A trial of any crime involving use or possession  
24   of a firearm shall have priority on the calendar of any court

1 of the United States. Upon receipt of the copy of such com-  
2 plaint, it shall be the duty of the presiding judge to assign  
3 the case for hearing at the earliest practicable date, and to  
4 cause the case to be in every way expedited.”.

SECTION-BY-SECTION ANALYSIS OF BAYH HANDGUN CRIME CONTROL BILL,  
REPORTED TO COMMITTEE ON THE JUDICIARY, DEC. 1, 1975

TITLE I : FINDINGS AND DECLARATION OF PURPOSE

*Sec. 101.* States the findings of Congress concerning violent crime in the United States and the role illegal handgun traffic, the availability of non-sporting, easily concealable handguns, the ready access to handguns by felons and other persons currently prohibited under Federal law from purchasing, plays in increasing crime rates. Also makes findings that possession of handguns by those already prohibited by Federal law from purchasing or transporting such weapons is a burden on commerce.

*Sec. 102.* The purpose of Congress in enacting the Handgun Crime Control Act is to assist law enforcement officers in their efforts to more effectively curb violent crime, to prohibit the commercial sale of small, easily concealable non-sporting handguns, to help insure that law-abiding citizens are not unwittingly selling handguns to convicted felons and to provide additional means to facilitate the prosecution of persons knowingly selling handguns to felons.

TITLE II : HANDGUN CRIME

*Sec. 201.* Amends section 921(a) to exempt licensed collectors from the ban on multiple purchases or sales of handguns found in sections 922(a)(7) and 922(t).

*Sec. 202.* Amends section 921(a) to provide definitions for the terms "handgun," "handgun model" and "immediate family".

*Sec. 203.* Amends section 922(a) to prohibit a person, other than a licensed dealer, licensed importer, licensed manufacturer or licensed collector from purchasing or receiving more than two handguns a year without first receiving approval of such additional purchases from the Secretary of the Treasury. The bill requires the Secretary to approve such additional purchases in situations involving the theft, loss or permanent malfunction of a handgun or for security guards or detective agencies. Transfers among members of an immediate family are totally exempted from these multiple purchase restrictions. This section also amends section 922(a) to make it unlawful for a person who purchases a handgun with the specific intent of transferring that handgun to a third party to make that transfer unless the person knows or has reasonable cause to believe that the possession of the handgun by the third party would be in accordance with Federal, State or local law. The section also amends section 922(a) to make it unlawful for any person to sell or transfer any firearm or ammunition to any person who the transferor knows or has reasonable cause to believe is currently prohibited from possessing, shipping, transporting or receiving firearms. Appropriate exemptions are made for licensed dealers, importers, manufacturers or collectors currently exempted under the 1968 Gun Control Act.

*Sec. 204.* Sale and Delivery Ban: Amends section 922(b) of title 18, United States Code, by adding a new paragraph (6) outlawing the sale or delivery by licensed dealers, licensed importers, licensed manufacturers, and licensed collectors of any handgun model unless the Secretary of the Treasury has specifically approved the model according to standards set forth in Section 207 of this Act. The Standards in Section 207 are designed to exclude handguns which are easily concealable and have no sporting purpose.

*Exemptions.* Sale and delivery to research organizations, governments, and law enforcement officers are exempted. Sale and delivery of curios and relics (defined as in the Gun Control Act) to licensed collectors and dealers are also exempted. Further technical provisions facilitate sale and delivery to governments and law enforcement officers. These exemptions are analogous to exemptions already in the Gun Control Act.

*Sec. 205.* This amends section 922(c)(1) to repeal that part of the affidavit required for intrastate mail order sales of handguns.

*Sec. 206.* This section amends section 922 to consolidate several repetitive sections of the 1968 Gun Control Act concerning the shipment, transportation or receipt of firearms by felons, fugitives from justice, unlawful drug users and persons who have been committed to mental institutions or have been adjudicated as mentally incompetent. This section also deletes the phrase "any firearm or ammunition which has been shipped or transported in interstate or

foreign commerce" thus relieving the government of proving in every criminal prosecution of firearm possession by a felon or other prohibited person that the particular firearm had actually moved in commerce. This section also transfers illegal aliens, currently found in Title VII of the Omnibus Crime Control and Safe Streets Act and prohibited from possessing or purchasing firearms under that Act to the Gun Control Act. This section also amends section 922 to transfer another provision of Title VII of the Safe Streets Act concerning possession of firearms by persons employed by other persons currently prohibited by Federal law to possess firearms.

*Sec. 207.* This section adds several new subsections (m-t) to section 922:

*Standards for commercial sales of handguns*

*Subsection 922(m):* Requires that the Secretary not approve any handgun for future commercial sale which fails to meet certain standards. These standards are basically identical to those which the Secretary of the Treasury established under section 925(d)(3) of the Gun Control Act of 1968, which banned the importation (but ignored the domestic production) of guns not "particularly suitable" for "sporting purposes". These criteria are precisely specified in paragraphs (1) and (2) of this subsection, providing an objective Congressional definition of the sporting purposes test for commercial handgun sale and delivery. Foreign and domestic handguns would be treated alike.

*Subsection 922(n):* Prohibits reduction of the external dimension of a handgun already approved by the Secretary (for example, sawing off the barrel) so that the handgun could no longer be approved. This is analogous to the National Firearms Act's regulation of the making of sawed-off shotguns.

This section also establishes a review and appeal process for persons who wish to submit a handgun for testing to determine if it qualifies for sale or distribution under the Act.

*Waiting periods for handgun sales*

*Subsection 922(q):* Requires all commercial sale of handguns to be in-person transactions. All handgun purchasers would be required to furnish the licensed dealers with their name, address, birthdate, birthplace and local jurisdiction where the purchaser intends to keep the handgun. The dealer forwards this information to the FBI and the chief law enforcement officer of the jurisdiction in which the purchaser intends to maintain the handgun. The FBI is then required to check the records of the identification division for indications that the purchaser is prohibited from owning or possessing a handgun. If the licensed dealer has received reports from the FBI and the relevant chief law enforcement officers which indicate the purchaser is not prohibited from owning a handgun the transaction may be completed. If the dealer has received no reports from either local or Federal authorities within 18 days of the date on which the necessary information was sent the dealer may also complete the transaction.

*Subsection 922(r):* Applies the waiting period requirement of private transactions in handguns and establishes that private citizens must have been shown to have "willfully" violated the waiting period requirements in order to establish a violation. Persons wishing to purchase a handgun from a private individual must give a licensed dealer the same information required in an over-the-counter handgun sale. If appropriate, after an 18 day waiting period the dealer will issue two criminal record forms indicating that the dealer has received no information that the transferee is prohibited from owning or possessing a handgun and the transaction may be completed.

This section specifically exempts immediate family members from waiting period requirements and also exempts transactions involving the temporary loan or rental of a handgun for sporting purposes as permitted under current law.

Additionally this section mandates that the FBI and the Bureau of ATF may not retain any name or address if such information was obtained solely from a waiting period check.

*Multiple commercial sale of handguns to same person*

*Subsection 922(t)* Prohibits the commercial sale of more than two handguns in the same year to the same person without prior approval of the Secretary of the Treasury for additional purchasers. The bill requires the Secretary to approve such additional purchases in situations involving the theft, loss or permanent malfunction of a handgun or for security guards or detective agencies.



*Sec. 208. Import Restrictions.* This technical amendment to section 925(d) (3) of title 18, United States Code, substitutes the detailed criteria of section 922(m), for the general language of the "sporting purposes" test for importation. This carries through the intent to provide an identical test to cover both foreign and domestic handguns.

*Sec. 209.* This section allows the voluntary transfer of non-sporting purpose handguns to law enforcement agencies and provides reasonable compensation for the transferor.

*Sec. 210.* This section creates an exception to the application of any part of this bill to the sale, receipt or delivery of any firearm to police or military personnel. It also excludes firearms to be used for testing and evaluation by sporting magazines or professional journals from coverage under this bill.

*Sec. 211.* This section amends 925(c) to provide for relief of restraints imposed by the Gun Control Act on mental incompetents who have been adjudicated by a court as restored to mental competency. This is similar to such a procedure currently available to felons who wish to apply for relief from restraints.

*Sec. 212. Appropriations.*

*Sec. 213. Effective Dates.*

*Sec. 214.* This section repeals Title VII of the Safe Streets Act which has been consolidated in the Gun Control Act by Section 206 of this bill. Persons who have renounced their citizenship and persons dishonorably discharged by the armed forces which were covered in Title VII have not, however, been transferred to the Gun Control Act.

#### TITLE III: MANDATORY PENALTIES FOR THE USE OF FIREARMS IN CRIME AND UNLAWFUL FIREARM TRAFFIC CONTROL PROVISIONS

*Sec. 301.* This section provides for an additional penalty of 5 to 15 years imprisonment for any person convicted of commission of a felony while armed with a firearm. It also requires the court to state in writing its reasons for not imposing such additional penalty if it should choose not to impose them. Any person convicted of this same offense twice, in addition to penalties for the underlying felony, receives a mandatory penalty of 5 to 15 years imprisonment which cannot run concurrently with any penalty assessed for the commission of the underlying felony.

*Sec. 302.* This section establishes mandatory penalties for any federally licensed importer, manufacturer, dealer or collector who sells or disposes of a firearm to a person who the licensee knows or has reasonable cause to believe is under indictment for a felony, or who has been convicted of a felony. Mandatory penalties are also established for a person under indictment for a felony who ships, transports or receives a firearm in interstate commerce. This section also provides mandatory penalties for a licensee who sells or delivers a firearm to a person who the licensee knows, or has reasonable cause to believe, does not reside in the State in which the licensee does business. The three exemptions to this violation currently contained in section 922(b) (3) are retained. Any licensed importer, manufacturer or dealer who violates section 922(b) (6) by selling a non-sporting handgun would also receive a mandatory penalty.

*Sec. 303.* This section amends the record-keeping requirements of licensees to require them to promptly report to the Secretary any theft of firearms and the circumstances surrounding such theft. Licensed manufacturers are also required to report on the number and type of handguns manufactured annually.

*Sec. 304.* This section expedites the trial dates of crimes involving use of a firearm by granting such crimes priority on the court docket.



MAJOR PROVISIONS OF ADMINISTRATION, SENATE AND HOUSE HANDGUN LEGISLATION:  
PREPARED BY THE SENATE SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY, JANUARY 1, 1976

Subject	Bayh, reported to Judiciary Dec. 12, 1975	Ford, introduced July 26, 1975	Conyers, introduced Dec. 16, 1975
Sale of nonporting handgun (including Saturday night specials). Waiting period.....	Bans commercial sale of nonporting handguns except for law enforcement and military personnel. Requires 18 d waiting period for both commercial and private transfers of handguns. Mandates Federal officials to make a criminal records check of the purchaser in order to insure that the purchaser is not a convicted felon. Establishes privacy safeguards for criminal records check information. Exceptions for transfers between immediate family members. Limits purchase of handguns to 2 per year, with exceptions for family members, collectors, law enforcement, military, and security personnel as well as situations involving loss, theft, or malfunction of a handgun. Requires firearm dealers and manufacturers to report any theft or loss of firearms to the Secretary. Makes it a felony for any person to sell firearms to a convicted felon if the seller knew or should have known the purchaser was a felon. Imposes mandatory penalties on felons who illegally possess firearms. Not changed from provisions in 1968 Gun Control Act.	Bans both commercial and private sale of nonporting handguns. Requires 14 d waiting period for commercial sale only. Does not require any criminal record check.	Not affected. Requires 21 d waiting period for commercial sale only. Does not require any criminal records check.
Multiple handgun purchases.....	Limits purchase of handguns to 2 per year, with exceptions for family members, collectors, law enforcement, military, and security personnel as well as situations involving loss, theft, or malfunction of a handgun.	Limits purchase to 1 every 30 d.....	Limits purchase to one every 30 d.
Illicit firearm traffic.....	Requires firearm dealers and manufacturers to report any theft or loss of firearms to the Secretary. Makes it a felony for any person to sell firearms to a convicted felon if the seller knew or should have known the purchaser was a felon. Imposes mandatory penalties on felons who illegally possess firearms. Not changed from provisions in 1968 Gun Control Act.	Makes it a felony for any person to sell firearms to any other person unless the seller knows the purchaser is not a felon.	Makes it a felony for any person to sell firearms to any other person unless the seller knows the purchaser is not a felon. Authorizes the Secretary to prescribe regulations to prevent theft of firearms.
Licensed firearm dealers and manufacturers.	Establishes different classes of firearm licenses, increases license fees, establishes civil penalties for licensee violations, increases time for issuance of license by Secretary from 45 to 90 d. 1st offense: 1 to 10 yrs. 2d offense: 2 to 25 yrs. Both penalties mandatory.	Establishes different classes of firearm licenses, increases license fees, establishes civil penalties for licensee violations, increases time for issuance of license by Secretary from 45 to 90 d. 1st offense: 1 to 10 yrs. 2d offense: 2 to 25 yrs. Both penalties mandatory.	Establishes different classes of firearm licenses, increases license fees, establishes civil penalties for licensee violations, increases time for issuance of license by Secretary from 45 to 90 d. 1st offense: 1 to 10 yrs. 2d offense: 2 to 25 yrs. Both penalties mandatory.
Additional penalties for use of firearm in the commission of a felony.	1st offense: 5 to 15 yrs unless judge specifically states in writing reasons for not imposing sentence. 2d offense: Mandatory 10 to 30 yrs. Provisions for speedy resolution of cases.		

## PART 2—STATEMENTS AND LETTERS

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AMERICAN ASSOCIATION OF UNIVERSITY WOMEN,  
MT. VERNON BRANCH,

*Alexandria, Va., December 3, 1975.*

Hon. JAMES O. EASTLAND,  
*Chairman, Committee on the Judiciary,*  
*U.S. Senate,*  
*Washington, D.C.*

DEAR SENATOR EASTLAND: Since the AAUW has adopted gun control legislation as part of its 1975 Federal legislative program, I wish to urge your expediency in considering Handgun Crime Control bill sponsored by Senator Birch Bayh (D-Indiana).

Every national poll has indicated support of gun control legislation in this country—the sooner the better. We of the AAUW, Mt. Vernon branch, support that public mandate.

Thank you for your attention.

Sincerely,

Mrs. RUTH HEFFERMAN,  
*Legislative chairman.*

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AMERICAN HERITAGE HUNTING & GUN CLUB,  
*Riverview, Fla.*

To: All members of the House and Senate Judiciary Committee.  
Subject: President Ford's Gun Control proposal.

DEAR SIR: The American Heritage Hunt & Gun Club agree with the "Minimum Sentence for the use of a firearm in committing a crime" portion of the bill. We are opposed to the rest of the bill.

The stringent gun control laws of New York City demonstrate the ineffectiveness of gun laws to stop crime. In fact there is nothing to indicate that crime has been reduced by the enactment of gun control laws.

The laws against ownership of firearms do not reach criminals. Instead, restrictions on ownership and use of firearms discriminate against honest citizens. Often they aid the criminal by disarming his victim. So the strongest argument against gun laws is their utter futility in reducing armed crime. In this country today we do not have a gun problem; we have a crime problem.

The main thrust needed to stop crime is an end to leniency toward criminals in our courts. Stricter enforcement of existing laws and a crackdown on criminals who use firearms. We must eliminate the permissiveness in our treatment of hardened criminals that have made our prisons into revolving doors for these enemies of society.

The cause of crime is politicians and courts which, while attempting to divert our attention to guns, release the criminals. As Dr. Ernest van den Haag stated, "New York has 182 times as many robberies as Tokyo. But in Japan, more than 90 percent of all crimes lead to arrest and conviction, whereas we punish, let me repeat, 1 percent of all crimes, and obtain about one conviction for every 50 serious crimes".

Punishment is to prevent the criminal from doing further injury to society, and prevent others from committing the like offense.

The American Heritage Hunt & Gun Club urges you to vote AGAINST the Ford gun control proposal and all other repressive gun control measures. And support legislation directed at the criminal element.

Sincerely,

RONALD L. CAIN,  
*Legislative Chairman.*

## STATEMENT BY SENATOR JAMES L. BUCKLEY ON PROPOSED HANDGUN REGULATIONS

Mr. Chairman, I appreciate the opportunity to express my views on the issue of gun control. I share the alarm of *all* Americans over the increasing rate of crime in our country. Each day news reports bring additional justification for the public's fear of walking the streets at night and, in some communities, of being alone at home during the day. Parents wonder if their children are safe playing in neighborhood parks and recreational centers. All too often, the answer is that they are not.

Congress is again faced with the responsibility of responding to the public's concern for personal protection and security. In doing so, however, the Congress should be careful not to restrict unduly the liberties of all Americans in halting the crimes committed by a small minority among us. Instead, the attention of the Congress, and specifically of this committee, should focus upon the innocent, the helpless, the aged and the weak. The time is long overdue for the legislators to react strongly as their constituents against those who, by endangering the well-being of individuals, endanger as well the very fabric of our free society.

The American people have been outraged by the way terrorist groups around the world have acted as if they are immune to governmental reprisals against their barbarism. But the same attitude of immunity prevails among street criminals in our own land. They know that, if they are apprehended for their crimes, there is a strong chance that a lenient court will treat them as the unfortunate victims of their environment, rather than as perpetrators of deliberate evil. In other words, we have minimized the risks involved in committing a crime. Like most New Yorkers, I believe that our emphasis must now be upon the punishment of criminal conduct, rather than the prohibition of the possession of firearms.

Some latter-day authorities on the Constitution claim that the Second Amendment to that neglected document refers only to the right of an organized militia, rather than private individuals, to bear arms. That is not my view, and I am glad to say it was not the view of those who framed that amendment. At the time of the adoption of the Bill of Rights, this country's statesmen were concerned with the need to protect citizens from government itself, and the passage of almost two centuries has not negated the validity of their concern. The fact that Article I, Section 8, clause 16 of the Constitution grants Congress the power to organize, arm, and discipline the militia clearly indicates a quite different intention for the Second Amendment. Moreover, several of the state constitutions, newly drafted during the period of the early Republic, specifically mentioned the right of the individual to own arms. If the framers of the Constitution truly wished to protect citizens from the potential tyranny of any strong, centralized government, they could not also have intended to disarm citizens, who would then have been helpless to resist the very kind of usurpations which the Founding Fathers hated and feared.

I hate to think of the present-day consequences of the disarmament of the American people. Gordon M. Johnson, Chief of Police in Minneapolis, in an article in the *Manchester Union Leader*, January 3, 1974, declared: "Police forces were never designed to provide general personal security; that reliance has of necessity rested with the people. Who provides protection before the squad car arrives?"

In an interview with a *Human Events* reporter, published March 22, 1975, the former Chief of Police for Los Angeles, Edward M. Davis remarked: "If we didn't have a pro gun lobby, we would be completely disarmed by now. Frankly, I'm not going to give up my guns until government can assure me that I will be protected from the blood thirsty killers turned loose by the courts. Any individual who wants my guns will have to come and get them the hard way."

I am sure that millions of Americans share the sentiments of former police chief Davis. Can our government provide for adequate protection of all its citizenry without taking on many of the characteristics of a police state? I think not. We will not control the criminal use of guns by disarming the law-abiding.

Mr. Chairman, this country will never achieve justice and domestic order until the penalty for criminal conduct becomes commensurate with the evil it has caused. I have long advocated mandatory penalties for any felon who com-



mits a crime while in possession of a firearm. I am a co-sponsor of Senator Domenici's bill, S. 216, which would do just that. It mandates imprisonment of not less than 1 year and not more than 10 years for a first offense, and not less than 2 years nor more than 25 for a second offense with a gun. In addition, probation would not be permitted. It therefore provides the kind of assured penalty that will discourage criminals from carrying guns under circumstances when they may be tempted to use them. Moreover, the penalties here stated could not run concurrently with any other sentence. It is my firm belief that only legislation such as that which Senator Domenici has proposed can really come to grips with the criminal use of guns that has made America a nation of fearful victims.

Mr. Chairman, I would like to address myself specifically to proposals recently made by the Attorney General regarding the Federal regulation of handguns. While I share Mr. Levi's concern for the crime rate and for the apparent inability of Federal law-enforcement efforts to reduce it significantly, I find his proposals to be faulty in their conception, erroneous in their assumptions, and unworkable in their application.

As I understand Mr. Levi's plan, it provides for virtually gun-free zones in various metropolitan areas of the country, depending upon their level of population, their crime rate, and the rate of increase in their crime rate. A certain formula, as yet to be worked out, would automatically trigger the provisions of the law, making them applicable to an area when its crime rate hit a certain level. Thereafter, the possession and sale of firearms and ammunition would be severely limited. In fact, they would be almost impossible to obtain.

The plan is shot through with loopholes. In the first place, it is at best misleading to think that the Attorney General's proposals would apply only to large cities. When suburbanites, and even the residents of rural counties on the far fringes of large cities, discover that the Census Bureau and the Office of Management and Budget have included *their* communities in the definition of "metropolitan areas," they will also find themselves brought under Mr. Levi's proposals.

Moreover, although the plan professes to safeguard the interests of sportsmen and members of gun clubs—by allowing them the right to fire their weapons at properly licensed gun ranges—it also would require them to store their weapons at properly licensed arsenals. We can imagine the scenario. Law-abiding citizens, having registered their guns, must leave them at their gun club's vault, if that vault passes federal inspection and meets federal standards. Then, when criminals raid the vault and add those guns to their private stockpiles, the Department of Justice would presumably investigate the gun club to see if the theft was due to their negligence or oversight. This is not meant to be a humorous matter; it is all too likely to actually happen.

The fatal flaw in the Attorney General's plan, as the *Washington Post* pointed out in a recent editorial, is that it cannot prevent gun-running between those areas covered by the plan and those in which the possession of firearms would still be left to state jurisdiction. In short, the plan would not work, could not work, unless it were eventually extended to the entire country; and even then it is hard to believe that anything short of repeated house-to-house searches would flush out even a fraction of the millions of handguns now in private hands.

Let us face the facts, Mr. Chairman. Let no one be deluded on this point. The Attorney General's nicely crafted proposals not only would not deprive criminals of their guns, but before this decade is out, it would mean the end of legal private ownership of handguns in America, at least on the part of those law-abiding citizens whose right to bear arms should not be impaired.

In conclusion, Mr. Chairman, I repeat again what should not need repetition: the American people are frightened for their safety and security. Because our criminal justice system seems not to be protecting them, they are purchasing firearms for their own defense. Who can blame them? They are convinced, and rightly so, that their government is not taking adequate measures to bring criminals to justice. They have therefore realized that they must themselves guarantee their own safety. It is a lamentable state of affairs, but denying these facts will not change them.

I strongly emphasize to the Committee that the remedy for crime is punishment of crime, not restrictions upon decent citizens.

STATEMENT BY SENATOR FRANK CHURCH ON THE ESCALATING RATE OF FIREARMS  
CRIMES

Mr. Chairman, I am pleased to testify today in support of legislation to repeal the restrictions on the sale of .22 caliber ammunition which are part of the 1968 Gun Control Act.

In 1969, I supported an amendment to eliminate registration provisions of the 1968 Gun Control Act affecting sporting rifles and shotguns. The Congress enacted this amendment into law, thereby repealing the recordkeeping requirements on shotgun ammunition, ammunition suitable for use only in rifles generally available in commerce, and component parts for these types of ammunition. In adopting this proposal, Congress supported my belief that the reporting requirements for sporting firearms created a large and unnecessary burden on the Treasury Department, on ammunition dealers and on the Nation's sportsmen who purchase this type of ammunition.

The legislation I now urge you to favorably consider adds .22 caliber rimfire ammunition to the existing provision (Section 4182(c) of the Internal Revenue Code of 1954) exempting other types of sporting ammunition.

I believe that it is important to eliminate useless provisions of the law, whose enforcement hinders real crime-fighting efforts. Just as the ammunition restrictions repealed in 1969 were useless and ill-conceived hindrances to the crime-fighting effort, so are the restrictions on .22 ammunition which have remained in the law.

What exactly does this recordkeeping involve? Under provisions of the 1968 Gun Control Act, it is unlawful for a Federally licensed dealer to sell or deliver ammunition without making a record showing the name, age and residence of the purchaser. In addition, all dealers are required to maintain such records of importation, production, shipment, receipt, sale or other disposition of firearms and ammunition as may be provided by regulations. The resultant Treasury Department regulations require a licensee who sells .22 ammunition to record: the date of transaction; the name of the manufacturer, the caliber, gage or type of component, and the quantity of ammunition transferred; the name, address and date of birth of the purchaser; and finally, the method used by the licensee to establish the identity of the purchaser.

Concerning its own .22 requirements, the Treasury Department states: "the recordkeeping requirements have become so burdensome that they tend to detract from the enforcement of the firearms laws." It is clear that the time and nuisance involved in compliance with these requirements cannot be justified.

These requirements have also been found useless in efforts to fight crime. Treasury Department officials have testified before Congressional Committees that they know of no instance "where any of the recordkeeping provisions relating to sporting-type ammunition—including .22 caliber rimfire ammunition—has been helpful in law enforcement." And the Justice Department has also confirmed that:

"There is not a single known instance, as we have learned from our discussions with IRS, with the firearms people there, not a single known instance where any of this recordkeeping has led to a successful investigation and prosecution of a crime."

It is clear that present restrictions on .22 ammunition are useless, and worse, a deterrent to the fight against crime by the waste of effort their enforcement requires. Furthermore, when there is already so much government-inspired complication of our daily lives, repeal of these restrictions is a fine place to end a senseless harassment, involving the most popular type of sporting ammunition in the United States. Again, I urge that you act favorably on this legislation.

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STATEMENT BY GEORGIAN'S FOR HANDGUN CONTROL, INC.

Georgians for Handgun Control, Inc., was formed in April of this year for three purposes: 1) to advance public knowledge and awareness of the destruction handguns cause society; 2) to develop and promote effective legislation at the federal, state and local levels; and 3) to seek more stringent enforcement of handgun laws presently enacted. More specifically, this group was organized because we feel that opponents of handgun control have



deliberately and negligently failed to address themselves to the basic problems to which handguns contribute significantly—the burgeoning crime rate and, in particular, the rapid growth in crimes of violence; the spread of domestic violence in which handguns are the weapons most commonly used; and the danger to unqualified persons caused by excessively easy access to these weapons and consequent accidental shootings. No practical, workable solutions have been made by them—only excuses and poor rationalizations. If they offer no solutions, then they stand in the way of the majority of Americans to whom these problems have taken on a more terrifying aspect in recent years and who desire a change.

Effective legislation and strict law enforcement can be combined to control these problems without forcing the responsible and law-abiding citizen to forego any of his rights. Although you concern yourselves with federal legislation, Georgians for Handgun Control would like to see these kinds of legislation on the local, state, and/or federal levels:

1. Centralized registration of all handgun sales and transfers to allow law enforcement agencies to trace them efficiently. Such registration could be similar to that required in the sale and transfer of automobiles.

2. Licensing of users of handguns after qualification by examination, minimum age, mental and physical competence and no criminal record.

3. Strict and mandatory sentences for the use of handguns or handweapons in the commission of a crime.

4. Severe penalties for the possession of handguns without proper authority or license.

5. The stopping up of loopholes in the 1968 Gun Control Act, such as prohibiting the importation of unassembled handgun parts.

6. Regulation of production of handguns by strict quality control.

7. The legal definition of the term "Saturday Night Special," and the subsequent banning of the manufacture, assembly, sale, and possession, or use of it.

Legislation and law enforcement measures to effectively combat the handgun tragedy should not necessarily be limited to the above. Georgians for Handgun Control feels that the growing homicide rate by handguns is a national problem. State legislation can help, but such legislation cannot be really effective until there exists a uniform code of handgun control throughout the country, which includes a standardized set of definitions. In the interim, we will actively support passage of such legislation in our state assembly.

Handgun control legislation and enforcement should not be construed as being aimed at control or elimination of handguns from law enforcement agencies, the military, security guards, licensed pistol clubs, or the prohibition of gun collecting or sport hunting. In fact, with the cooperation of such groups, this weapon can be taken out of the hands of the criminal and the unqualified, while the responsible citizen will still have access to it for its rightful purposes—law enforcement and sport.

Georgians for Handgun Control intend to take an active part in the legislative process, to let you know that when you vote in favor of gun control, you have the support of a majority of the American people. Responsible and effective handgun control is an idea whose time has come. It is only a matter of time until Congress becomes persuaded that the people of the United States want nothing less. We urge you to take your stand on the side of common sense, reason, and the majority to prevent any more years from going by with handgun hysteria stopping us from controlling a serious and growing problem.

STATEMENT BY MAJ. FRANKLIN L. GREENE, USAF—A PROPOSAL FOR THE PRACTICAL CONTROL OF MODERN FIREARMS WITHIN THE UNITED STATES OF AMERICA

#### ABSTRACT

This paper proposes a procedure for the control of all modern firearms purchases and the registration of all such arms. It recommends that the system be administered by the Office of The Director of Civilian Marksmanship with all costs absorbed via a fee structure paid by the owners of such weapons.

## INTRODUCTION

Few, if any, issues are capable of generating as much emotion in our modern society as the question of the right to own and bear firearms. The various parties involved have, through passionate defense of their beliefs, allowed themselves to be driven to polar extremes with no common, reasonable solution apparent.

But surely such a reasonable solution must exist. It is inconceivable that honorable men, working together in an environment of trust, cannot develop a system whereby lawful citizens can possess modern firearms and yet assure that sufficient control is maintained over those firearms to prevent their migration into illegal paths and, further, to assure that law enforcement agencies can readily trace the ownership of any weapon if this becomes necessary in the course of an investigation. What follows is a suggested approach that will attain these goals.

It is proposed that the question of firearms control can be resolved by reducing it into two interlocking parts: (1) A procedure to control the sale of modern firearms and (2) Updating of laws for the prosecution of crimes involving the threat or the use of deadly force.

Each of these parts will be discussed in turn.

## CONTROLLING THE SALE OF MODERN FIREARMS

It cannot be argued that a firearm, whether it be handgun, rifle, or shotgun, is designed for but one purpose: to deliver a projectile to a target with deadly force. The fact that a vast majority of all modern firearms are used for legitimate sporting purposes or for home defense cannot obviate this one glaring characteristic. Hence, it must be obvious to any rational man that it is the duty of a modern urban society to insure that such weapons are kept out of the hands of the unqualified, such as minors, or those proven by past performance or current legal status, such as persons convicted of or under indictment for violent crime, yet provide free access to weapons for the vast majority of citizens who would use them only for legal pursuits.

Nor can it be argued that any laws must apply to all modern firearms and not just to handguns, for a shotgun can be illegally used to rob a bank or a rifle illegally used to assassinate a president as readily as a pistol.

For the purpose of this paper, then, the proposed control procedure will be for all modern firearms (i.e., any weapon utilizing a pre-packaged cartridge). Antique weapons, whether of original or reproduction manufacture, such as "cap and ball" arms are excluded, even as they are under current law. In a similar fashion so are all weapons currently banned by law, such as automatic rifles, explosive projectiles, etc., not discussed.

## CURRENT DIRECTOR OF CIVILIAN MARKSMANSHIP RULES

Lost within all the emotionalism of the firearms control question is the fact that the federal government is currently operating a very smooth firearms control procedure which, with very little modification, could be expanded into a general firearms control law.

This procedure, which is administered by the Director of Civilian Marksmanship, an office of the Secretary of Defense, is authorized by title 10, section 4308, of the U.S. Code. Under its provisions, the DCM is allowed to sell to private citizens (currently limited to members of the National Rifle Association) arms, munitions and associated supplies surplus to the needs of the Department of Defense.

In practice, an individual submits an application to the DCM, describing the firearm he desires to purchase. The DCM initiates an inquiry into the individual's legal status with all appropriate legal authorities and, when assured the individual is authorized by law to own the weapon, send him purchase authority against a federal source of supply. It is of great importance to note that the DCM maintains a permanent record of all firearms and to whom the weapon was sold. This constitutes, in effect, registration of the firearm yet the NRA membership, a leading opponent of registration, have voiced no complaint over the years this national registration procedure has been in effect. It is also noteworthy that this registration applies equally to both handguns and rifles.

## AN EXPANDED PROCEDURE

An expansion of the above operational concept would be simple to implement, allowing for the registration and control of all privately owned modern firearms in this nation. Key to the procedure would be a requirement that all firearm sales or transfers be made through a Federal Firearms Dealer, as currently defined by federal law, who would act as a field agent for the Director of Civilian Marksmanship.

In operation, the sale or transfer of a weapon would begin with the Federal Firearms Dealer. If the weapon is being sold or transferred between private citizens the current owner would first transfer ownership to the dealer and be relieved, thereby, of responsibility for the weapon. The dealer would forward to DCM identification data on the weapon, the potential buyer and, if a private seller is concerned, release data on him. Upon receipt of the data, the DCM will acknowledge it to the dealer and initiate a search essentially as accomplished today.

At this point the question of reasonable time spans must be addressed. Beginning with the assumption that all requests for data will be sent to law enforcement agencies on the same day, any response not received in a reasonable time, say six weeks, will be taken as a valid response that the agency has no legal objection to the sale. In any event, the DCM should be required to wait a minimum of time (for example again six weeks) from the time of the dealer request before returning purchase authorization to the dealer. This waiting period, although short enough to work no hardship upon the rational buyer, would serve as a "cooling-off period" for the impulse buyer.

If no legal bar to the sale has been found, the DCM will send the dealer a purchase authorization listing both the firearm identification and the purchaser. When the sale is completed the dealer will return confirmation to the DCM and the DCM will update master records.

Special note must be given to weapons in the "Saturday Night Special" class. It is generally admitted that these weapons serve no legitimate purpose, either for sport or self defense. It is recommended that if this procedure is implemented all sale of such weapons, either from dealer to private person or through transfer or sale from private party to private party be banned, although those currently in private ownership may be retained. In other words, the current owner of such a weapon may keep it, turn it in for confiscation or have it destroyed, but may not pass ownership on to another party.

By definition, any modern weapon with a melting point of less than 1000 degrees(f), an ultimate tensile strength of less than 55,000 pounds per square inch and—where powdered metal is used—a minimum density of less than 7.5 grams per cubic centimeter is a "Saturday Night Special."

## UPDATING OF LAWS CONCERNING DEADLY WEAPONS

Despite the fact that the vast majority of all modern arms are used only in legal, socially acceptable pursuits, it cannot be denied that some individuals will insist upon utilizing deadly force in the course of illegal activities. Those persons, or groups of people, should be forced by society to pay the penalties required for their illegal acts. What follows are, in general categories, the main methods by which a modern firearm can be misused and suggested penalties.

It should be noted that although this paper addresses itself only to the issue of modern firearms the penalties and categories apply equally well to *any* deadly weapon. It is, after all, immaterial to the victim of a deadly assault if the weapon was a pistol, lead pipe, shotgun, switchblade, rifle or *nunchaku*.

*Illegal possession of a modern firearm*

If, during the initial registration period, an individual is determined legally unqualified by the laws of his state to possess modern weapons, he will be granted a grace period, perhaps sixty days, to legally dispose of the weapon(s). At the end of this period, if they are still in his possession, they will be confiscated without repayment and destroyed.

If, after the initial registration period, an unregistered modern weapon is found in the possession of an otherwise qualified citizen the weapon will be confiscated without repayment and destroyed. Any other weapons in the individual's possession which are legally registered *will not* be confiscated. Nor will this failure on the part of the individual be considered as a criminal offense.



*Assault accompanied by the threat of deadly force*

If, during the course of an illegal act, a deadly weapon is used to coerce a victim without the actual infliction of bodily injury, a minimum of three and a maximum of five years imprisonment will be adjudged in addition to any other penalty resulting from the illegal act. The imprisonment will be levied on all active participants in the assault and not just the individual physically in possession of the deadly weapon.

*Battery by use of deadly force*

If, during the course of an illegal act, physical injury is inflicted upon a victim by use of a deadly weapon which does not result in death, all active participants in the battery will be sentenced to a minimum of seven and a maximum of fifteen years imprisonment in addition to any other sentence resulting from the illegal act. If, during the course of an illegal act, physical injury by use of a deadly weapon results in a victim's death, irregardless of whether such death was accidental or preplanned, all active participants in the battery shall suffer death.

## SUMMARY

This proposed solution, through a simple expansion of an existing, smooth running procedure, will allow for the sale of firearms to any authorized citizen. It would, additionally, establish a central point from which the current ownership of any specific or the total ownership of modern arms by any individual can be readily established by legal authorities in pursuit of their duties. Although it calls for the total registration of all modern arms—anathema to some—it is in reality only an extension of a procedure already freely accepted by this same group.

Most importantly, this solution places the responsibility for modern firearms control in the hands of an existing federal agency deeply involved in and accepted by the firearms community.

That is not to say the procedure does not possess disadvantages. They exist and, prime among them, are the sheer number of transactions which would occur, both to initially register all modern firearms currently in private possession and to subsequently control all sales and transfers which will continually occur.

This transaction bulk implies the need of data automation, which in turn means significant fund expenditures. It is recommended that this disadvantage can be overcome by making the program self supporting via a fee structure payable to the federal government. Fees would be assessed for each weapon sale, registration or transfer and would be one time in nature. That is, once an individual has purchased and registered the modern arm and paid the necessary fee, no further fees, such as an annual "reregistration fee," would be required until such time as ownership again is transferred. The maximum payment for such fees would be established by law.

The question of "creeping bureaucracy" is also of great concern. It can readily be anticipated that a program of this nature, with its inherent high visibility, could easily generate a massive, creaking office force administering, co-ordinating, cross referencing, triple copying and confusing the whole issue. With the exception of computer staff personnel (that is, computer operators, keypunch staff, etc.) the maximum size of the office should be limited by law to an absolute maximum of five. An assistant for registration to the Director of Civilian Marksmanship, three office workers and a clerk/typist. No field force would be required through the expediency of using Federal Firearms Dealers for administrative matters and existing legal authorities, such as police departments, for the correction of detected illegalities.

The question of modern firearms control will not go away and, ultimately, will result at the national level in restrictions being placed upon the possession of such arms. The only true question logically to be answered is how best to accomplish this to supply the greatest good and protection to the citizens of this country without unnecessarily restricting the rights of those same citizens. This proposal would accomplish these ends by:

1. Verifying qualifications prior to the sale or transfer not restrict ownership.
2. Providing for a cooling off period to prevent impulse buying but yet preventing unreasonable delays.

3. Providing a simple, smooth running procedure which utilizes a federal agency acceptable to pro firearms people.

4. Being cost effective, through financing by a user fee system.

5. Providing ready, almost instantaneous, identification of arms.

6. Recommending standard penalties for the misuse of firearms.

Once stripped of its emotionalism, the question of modern firearms control becomes one of establishing the simplest procedure to effectively do the job. The above proposal is respectfully recommended as the basis for such a procedure.

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STATEMENT OF THE HON. MAYNARD JACKSON, MAYOR, CITY OF ATLANTA, BEFORE THE GEORGIA HOUSE OF REPRESENTATIVES, SPECIAL JUDICIARY COMMITTEE HEARING ON HOUSE BILL 249 HANDGUNS, FEBRUARY 4, 1975

Good morning Chairman Thompson, members of the committee, ladies and gentlemen.

I appear before you today to speak in *support* of House Bill 249, authored by Representative David Scott. I come here as mayor of Atlanta, as vice chairman of the public safety committee of the National League of Cities, the chairman of the committee on criminal and social justice of the United States Conference of Mayors and as a member of the public safety committee of the Georgia Municipal Association. I consider this legislation to be the key to any significant thrust we could hope to have in our attempts to reduce crime in our State and City. With the enactment of this legislation, it is certain that there would be a significant reduction in deaths caused by handguns. A national crime commission survey found that assaults with a handgun were *five (5) times* more likely to be fatal than an attack with any other weapon. The annual national figures of 25,000 handgun deaths, one-half of which are homicides, can be reduced significantly by the regulation of private handgun ownership. It is not difficult to project that the number of suicides and accidental deaths, which account for the other 50% also would be curtailed if handguns were not readily available.

In Atlanta there have been 766 homicides in the last three years, and 60% of them were committed with handguns. Of the 2,000 aggravated assaults in Atlanta in the last two years, 55% were committed with handguns. Last year Atlanta saw 248 homicides, 65% (161 homicides) committed with handguns. The motives for most of the homicides were sudden anger (86), domestic quarrels (63), and drunken argument, jealousy or revenge. What these figures mean to me is that when violent emotion takes over a person who has easy access to a handgun, he or she is more likely to kill than injure, and, therefore, handguns do result in death *and they do kill*. The attempts to say that "people kill, not guns" is *not* an appropriate comparison. The appropriate comparison is whether a person with a knife is as likely to kill as the same person with a handgun. Obviously, the *potential for success* in one's deadly design is increased by the use of a handgun.

The crying need for handgun control legislation is not seen only in the appalling figures of 25,000 annual deaths in the United States, but is, in fact, made even more appalling when United States statistics are compared with statistics in those countries with strict control laws. Last year England and Wales combined had 35 homicides altogether. In Windsor, Canada, a city of 211,000, there were six handgun murders last year. In Detroit, a city of 1.4 million, which lies 1,000 yards across the river from Windsor, there were 801 homicides, tops in America.

A recent study compared the percentage of homicides by handguns in cities with varying degrees of handgun regulation. The survey showed a direct relationship between the strictness of the control and the percentage of handgun homicides. Dallas and Phoenix, cities with virtually no restrictions, were 72% and 65%, respectively. Cities with some restriction were lower—Los Angeles (43.5%) and Chicago, (46.4%)—and cities with the greatest handgun control were significantly lower—Philadelphia (35%) and New York (25%). Atlanta in 1974 fits right in along with Dallas and Phoenix with a staggering 64.9%.

I feel that state and local handgun legislation is important for several reasons, first, the attempts on the Federal level have had little impact:



witness the comparison between the United States and England. Moreover, a recent study by Professor Franklin Zimring of the University of Chicago has termed the 1968 Federal act, passed in aftermath of the deaths of Senator Robert Kennedy and Dr. Martin Luther King, Jr., a massive failure. Dr. Zimring found that homicides involving handguns have increased more than three times as much as homicides by other means since the act was passed.

His study and others have shown that the number of handguns has *not* decreased as a result of the 1968 Federal act, only that production and income of American manufacturers and assemblers has increased because of the restrictions on foreign imports.

Second, since the Federal act applies uniformly, the differences between Dallas, Phoenix and Atlanta on the one hand, and Chicago, Los Angeles, Philadelphia and New York on the other, *has to be attributable to the more stringent State and local laws*. Chicago Mayor Richard Daley, who favors handgun regulation, operates with both an Illinois State law and a Chicago ordinance.

While I support the recommendations of the National Advisory Commission on Criminal Justice Standards and Goals, I even more strongly support the recommendations of the United States Conference of Mayors and the Georgia Commission on Criminal Justice Standards and Goals, urging strong local action.

I also support house bill 249 because it can help plug a loophole in the 1968 Federal act. This loophole is particularly applicable to Georgia. The restriction on the import of substandard guns created in the 1968 law has led to the importation of the disassembled parts of such handguns and their assemblage in the United States.

According to an official of the Bureau of Alcohol, Tobacco and Firearms Division of the Treasury Department, these handguns are technically made domestically and are, therefore, legal. In fiscal 1973, 772,000 handguns were assembled in the United States using imported parts. Of the five major national assemblers of these handgun parts, one operated in Georgia in 1974. There is no law which prevented this company from operating in Georgia, and no law which would prevent it from returning.

To the extent that this assembler was producing handguns which are "substandard" as defined in Representative Scott's act, this company would be prevented from operating in Georgia and further shameful contribution to the volume of "Saturday night specials" in our country would be reduced. This is precisely the type of cheap, easily concealable, readily available weapon which law enforcement officials agree does kill in America.

I encourage you not to be persuaded by lobbyists on a national or local scale who say that people of America do not want handgun control. *Gallop polls for the last ten years have found that a consistent majority of two-thirds of all Americans favor handgun control*. I do encourage you to listen to speakers for citizens' groups favoring handgun control which have a broader base of support and are becoming more evident on the American scene.

I have tried briefly to outline for you my reasons for supporting this handgun regulation legislation. My review of the statistics and my experience on the National Advisory Commission on Criminal Justice Standards and Goals persuades me that while no inanimate object can kill without a person behind it; *handguns simply kill better and far more quickly and impersonally than any other weapon*. To those who say "if possession of a gun is a crime, then only criminals will have them," I pledge strict and tough enforcement in the city of Atlanta of any laws the general assembly may pass to make sure those criminals go to jail.

The issue of handgun control is an emotional one. *It is a costly one*, too. Each day without handgun control means more lives are taken, more futures are ruined more families are left without loved ones and, from a purely financial perspective, the cost to our cities and State for apprehension, detention, trial and eventual confinement of perpetrators who otherwise might not have killed, is staggering and increasing each year.

We have better ways to spend our tax dollars. We can use them to prevent the human slaughter that is now taking place in our cities.

The statistics I have cited for you today speak for them and support, as I do, house bill 249's proposals for the regulation of handguns in Georgia.

STATEMENT BY MAYOR MAYNARD JACKSON BEFORE THE U.S. HOUSE OF REPRESENTATIVES SUBCOMMITTEE ON CRIME, PUBLIC HEARINGS, ATLANTA, GEORGIA, JULY 21, 1975

I appear before you today as mayor of the city which, in 1974, led the Nation in homicides per 100,000 of population. I firmly believe that the major reason for this dubious distinction is the abundance of handguns in Atlanta. The briefest look at a few statistics will show you what I mean.

In the last three years, there have been 766 homicides in Atlanta. 66-2/3% of these homicides were committed with handguns. Of the 7,064 aggravated assaults in Atlanta in the last three years, 44.8% were committed with handguns. Two characteristics of the homicides and aggravated assaults are important to our purposes here: (1) the presence of high emotion and (2) the availability of a weapon. It is the combination of these two elements which led to the deaths of at least 125 Atlantans last year.

Over 80% of the homicides in Atlanta in the last three years occurred between people who knew each other. The emotions run higher between acquaintances and family members than between strangers. In 1974, the motives and circumstances of our 248 homicides demonstrate highly emotional situations. 86 of the homicides were the result of sudden anger. 63 resulted from domestic quarrels. The other most often stated motives were drunken arguments, jealousy and revenge. *Only 38 of the homicides were related to robbery or rape.*

The second major characteristic of these homicides is the *availability* of a weapon. *Not just any weapon, but an efficient mechanism which can kill.* A recent national crime commission study showed that assaults with handguns were *five times more likely to kill than assaults with any other weapon.* Handguns were responsible for 66% of the homicides in Atlanta during the last three years.

While there is no simple solution for the high emotion factor in homicides, there is a solution—and a simple one—to dramatically reduce homicides across this country and that is the elimination of the other major contributing factor in the majority of our homicides—handguns. I wholeheartedly support the recommendation of the national advisory commission on criminal justice standards and goals that the sale of all handguns except to law enforcement agencies or governments be strictly prohibited and that private possession of handguns be prohibited after January 1, 1983.

This morning, I respectfully offer for your consideration a four point plan for achieving that goal.

*Number one*, I propose the immediate establishment in every state of a *handgun control project* similar to the national project of the U.S. Conference of Mayors. By January 1, 1976, I would like to see each State with an active organization which can provide two major services: (A) this organization can provide resources to out-lobby the anti-gun control lobbyists. National samples over the past ten years by independent pollsters have shown that a consistent majority of all Americans *favor* handgun control. Yet this overwhelming majority has been less effective in making its views known to legislators across the country than have the highly effective, well financed lobbyists for organizations such as the National Rifle Association. These handgun control projects can and should lobby vigorously for gun control legislation on the local level. I personally will pledge my support here today for fundraising efforts to finance this national lobbying campaign.

(B) The State handgun control projects can aid the national projects in providing vital research on a State by State basis and in disseminating this research and other information which describes the true facts about handguns. This research, for example, would address such issues as: How many persons who steal automobiles carry guns when they steal? How many persons engaged in burglary, larceny, and drug trafficking are armed? Would these persons engage in this activity if they did not have guns? Do handguns really provide personal protection to individuals who carry them? (Some studies indicate, for example, that a gun purchased to protect a family from intruders is *six times* more likely to be used to kill a family member or friend.)

The compilation and dissemination of this type of information is vital to the proponents of handgun control. The coordination of statewide projects with the national project will aid in providing basic tools for those of us who will lobby for handgun control legislation.

*Number two*, I propose by 1978 strong new handgun control laws on the books in every State. Studies such as the one by Dr. Franklin Zimring have shown that *existing* national legislation is ineffective. Homicides involving handguns have increased at more than three times the rate of homicides by other means since the 1968 act was passed. The number of handguns has not decreased since the passage of the 1968 act. In fact, there are now approximately 40 million handguns circulating in the United States, and 2½ million are sold each year.

In addition, *existing* legislation fails to have any noticeable effect on handgun homicides. Studies have shown that in cities with *local* restrictions such as Los Angeles and Chicago, handgun homicides were much lower than in cities such as Dallas, Phoenix and Atlanta, which have virtually no restrictions. The number of handgun homicides decreases even more in cities with greater restrictions such as Philadelphia and New York. Since Federal laws apply equally throughout the country, we can attribute the difference in handgun homicides to local control.

*Number three*, I propose the passage of strict Federal legislation effective not later than 1980 to control the vast black market in handguns and to regulate strictly the importation of handguns. It has been estimated that there are 2 million *illegal* handguns in New York City alone at the present time. This means that they are not properly registered, are probably of a substandard variety and arrived in the city in direct violation of existing Federal laws.

A major factor in the passage of the 1968 act was the number of handguns imported into the United States. Since the passage of that act, the increase in the number of handguns sold in the U.S. has been staggering. For the years 1969 through 1973, over 2.3 million handguns were imported. During that same period, almost 5 million handguns made from imported parts have been assembled in the U.S. These figures demonstrate the dire need for (A) more strict control (these so called "parts" guns arrive because of a *loophole* in the 1968 act) and (B) better enforcement powers for Federal agencies.

My *fourth and final point* provides for passage not later than January, 1983, of legislation along the lines of the recommendations of the national advisory commission, with the exception of (E). Appointed by former President Nixon, this commission recommended: (A) the enactment of State legislation no later than January 1, 1983, prohibiting the *private possession* of handguns after that date; (B) the enactment of State legislation prohibiting the *manufacture* of handguns, handgun parts, and handgun ammunition within the State, except for sale to law enforcement agencies or for military use; (C) the enactment of State legislation prohibiting the *sale of handguns*, their parts and ammunition to other than law enforcement agencies or Federal or State governments for military purposes; (D) the enactment of State legislation establishing and funding a State agency authorized to purchase all voluntarily surrendered handguns to be retained by private citizens as curios, museum pieces, or collector's items; and (E) the enactment of State legislation providing for police discretion in stop-and-frisk searches of persons and searches of automobiles for illegal handguns.

If the States do not act, the Congress must. Americans have dual citizenship—in the State in which we reside and in America. If our States abdicate their responsibility by failing to control handguns—and they have, especially Georgia—the Congress must act without further delay.

This four point program will not provide a cure-all for all of our Nations' crime problems, but I guarantee that you and I will see a dramatic drop in the handgun deaths that are becoming so prevalent in our cities. We will witness a drop in those homicides that would not occur without the easy accessibility of the deadly handgun. The fate of our constituents is in our hands and we cannot afford to fail them.

I would like to mention in closing that I am pleased at the growing national concern for handgun control. The National Council to Control Handguns is doing excellent work in this area and we will continue to work closely with them and with regional groups such as Georgians for Handgun Control.



STATEMENT OF ROBERT M. MILEK, BEFORE THE SUBCOMMITTEE ON CRIME, U.S.  
HOUSE OF REPRESENTATIVES, DENVER, COLO., JUNE 23, 1975

Gentlemen, My name is Robert M. Milek. I was born and raised in Wyoming where hunting with handguns, rifles and shotguns has occupied the major portion of my life. I'm married, the father of five children, and I earn my living as a firearms and outdoor writer and professional hunter. I am presently a staff writer for Shooting Times Magazine whose editorial offices are in Peoria, Illinois, and for Handloader Magazine which headquarters in Prescott, Arizona. I also own and operate Big Horn Outfitters, a big game guide and outfitting business with headquarters in my home town of Thermopolis, Wyoming.

I appreciate the opportunity to appear before this Subcommittee and express my views, and those of hundreds of thousands of other American sportsmen, on handguns, handgun hunting and the irrational campaigns aimed at banning the ownership, manufacture and use of handguns for lawful sporting purposes in America.

My involvement with handguns is primarily with their sporting use in the hunting field. The question is often asked me, "Do you really believe that handgun hunting is a popular sport?" Not only do I believe it, but the facts indicate that handgun hunting is one of this country's fastest-growing shooting sports. I base this statement on several facts.

First, I am able to make a living writing about handgun hunting. Ninety percent of my work for Shooting Times concerns handgun hunting, and as the handgun hunting editor of Handloader, all of my work for this publication deals with hunting. If the interest in handgun hunting wasn't real, it would show up in sales, and neither Shooting Times nor Handloader would carry my articles.

With a circulation of 123,198, a figure verified by the Audited Bureau of Circulations, Shooting Times is the second largest and fastest-growing monthly firearms magazine in the country. They credit much of their success to their treatment of handgun hunting. The editorial content of each monthly issue is at least one-third handgun oriented. The March issue of Shooting Times is the annual handgun issue. Containing nothing but articles on hunting, target shooting and plinking with handguns, this is the biggest-selling issue each year. The February handloading issue, which again deals heavily with handguns, is regularly the second largest seller each year.

Handloader Magazine, a very specialized and technical firearms magazine, deals heavily with handgun subjects, most of which pertain to hunting and target shooting. Of the correspondence received by the editorial offices of Handloader regarding handguns, at least 50 percent concerns loads and bullet performance for hunting.

Second, my own mail is an excellent indicator of the American shooter's interest in handgun hunting. Every day I receive letters from sportsmen throughout the country, many asking technical questions concerning handloading for cartridges and pistols for hunting, others requesting advice on how to hunt specific game species. Just as 90 percent of my writing concerns handgun hunting, so does 90 percent of the correspondence I receive deal directly with this subject.

Third, I point enthusiastically to the success of Thompson/Center Arms of Rochester, New Hampshire, a relative newcomer in the firearms manufacturing field that has enjoyed phenomenal success. Thompson/Center Arms produces the Contender pistol, a long-barreled, uniquely-designed single-shot pistol intended specifically for hunting. This interchangeable-barrel pistol, whose single use is hunting, is the product on which this firm was founded. The first Contender was marketed in 1965. Today, after doubling the size of its handgun manufacturing facilities, Thompson/Center still can't keep up with the demand for their pistol.

The Contender is a very strong pistol, a feature that has allowed Thompson/Center to chamber it for a number of rifle cartridges better suited for many hunting chores than some traditional pistol cartridges. Mr. Steve Herrett, who is also a member of this panel, and I, recently developed two new cartridges which add a whole new dimension to handgun hunting. The .30 and .357 Herrett cartridges feature high velocity, long-range stopping power, and accuracy capabilities that make them ideal for taking big game at 100 yards

and more. The Contender is the only handgun made today that's strong enough to handle the pressures of the Herrett cartridges. Thompson/Center Arms is chambering Contender barrels for these cartridges and the firm advises me that the demand for these barrels far exceeds expectations. This is yet another indication of the popularity of handgun hunting because these cartridges use cases that must be formed in the workshop from other cartridges, then handloaded. This takes special dies and handloading know-how. Ammunition is not commercially available for either of these cartridges.

Fourth, I point to the fact that the majority of the quality handguns offered by reputable American manufacturers today, with the exception of those models intended specifically for either target shooting or law enforcement use, are large, heavy, bulky, relatively long-barreled pistols designed for hunting. Examples would be Ruger's Super Blackhawk .44 Magnum with a 7½-inch barrel, Smith & Wesson's .41 and .44 Magnums with 6½ and 8¾-inch barrels, Colt's Python .357 Magnum with a six-inch barrel, the new Auto Mag from TDE Corporation with 8½ and 10½-inch barrels, and Remington's bolt action single-shot XP-100 pistol with a 10-inch barrel. All of these are expensive, single-purpose handguns produced with the hunter in mind.

The handgun is a difficult firearm to master, much more difficult than a rifle or shotgun, thus the aspiring hunter devotes considerable time to practice. Such practice affords a man many hours of pleasure—both in the field and in the reloading room where the accurate, high performance ammunition is concocted. The handgun hunter is a serious sportsman. He takes his shooting seriously, his handloading seriously, his hunting seriously, and his responsibility to society seriously. He is not a criminal, he poses no threat to society, and neither he nor his firearms are involved in the commission of crimes.

To ban the use and ownership of quality handguns by lawabiding citizens and hunters in the name of law and order would be a crime against society of a much greater magnitude than those acts which such a maneuver is supposed to stop. Crimes involving handguns, or firearms of any kind, are committed by criminals, not by the gun.

In all states it is illegal for a person with a criminal record to own or carry a gun. However, it's a proven fact that a large percentage of the armed robberies and murders committed in this country are perpetrated by men with criminal records using guns they could not legally own. This is just one example of a law against guns that doesn't work. The criminal bent on robbery and murder isn't the least bit concerned about the fact that he's carrying an illegal weapon concealed on his person.

Laws against firearms will not act as a deterrent to crime. I point to the fact that there is no evidence whatsoever to indicate that firearms controls will in any way prevent or reduce crime. The Justice Department of the United States has absolutely no evidence indicating that any firearms control will deter crime. I quote from a letter of April 8, 1975, to Mr. Neal Knox, editor of *Handloader*, from Susan Hauser, staff assistant to the Deputy Attorney General. "A study concerning the effectiveness of gun control laws in preventing and controlling crime has not been conducted at the Department of Justice." Further investigation into this matter by Mr. Knox turns up the fact that not only has the Justice Department not made such a study itself, but it is not in possession of any study made by any other government agency.

In fact, evidence that firearms controls do not prevent crime is obvious everywhere. We have only to look at our large cities and metropolitan areas. New York City, with it's very restrictive handgun laws, has one of the highest murder rates and by far the highest robbery rate of any major city in the country. Detroit is hobbled with a very restrictive handgun registration law, yet it has the second highest crime rate for major cities in the United States. Proponents of firearms control are quick to point out that Detroit's, and the State of Michigan's gun controls are neutralized by neighboring Ohio where criminals go to purchase firearms easily. However, isn't it strange that Michigan's crime rate is so high even with stiff gun controls while Ohio, with almost no gun control at all, has a crime rate many times lower than Michigan? I ask you, members of this Subcommittee, where have gun laws reduced crime? Even more important, you should be asking this question if, as stated, your purpose is to find a way to reduce crime in the United States. If you do, you will most surely discover that accomplishment of your goal lies in the area of socio-economic problems, not with gun controls.

This is not to say that America's handgun hunters are flatly opposed to any and all legislation aimed at reducing crimes committed with a firearm. On the contrary, we welcome, and I would personally actively support good,



enforceable legislation that will curb crime. I actively support a movement to enact legislation calling for a law levying a mandatory, no-parole prison sentence of at least five years for any person convicted of using a firearm in the commission of a felony. Likewise, I would be willing to consider legislation controlling the manufacture, importation and sale of the so-called "Saturday Night Specials" if sufficient evidence can be presented to prove that such a move would in fact prevent crime. However, even then I would consider supporting such legislation only after a select committee of firearms manufacturers, shooters and law enforcement people was formed for the purpose of deciding just what constitutes a "Saturday Night Special". The term as it's now used is ambiguous and can be interpreted to mean anything from a \$10 junker to an excellent, functional \$200 pistol.

As a responsible, law-abiding American citizen and enthusiastic shooter and hunter, I sincerely hope that this Subcommittee will seriously consider the testimony given at this hearing and proceed with a program designed to reduce crime and punish the criminal. If you will just ask that one big question. Where have gun laws reduced crime? I'm confident that other hearings such as this will soon be unnecessary and our Congress will not be asked to take away more of the freedom that's the very foundation of America.

This editorial, written by Mr. Neal Knox, is herewith submitted as an attachment to my written testimony and should be considered as pages 9 and 10 of my written statement.

[From the Jan-Feb, 1975, Rifle Magazine.]

#### WHERE HAVE GUN LAWS REDUCED CRIME?

The most difficult question that advocates of "gun control" can be asked is: "Where Have Gun Laws Reduced Crime?"

They can't give a straight answer, for no city, no state, nor the federal government has recorded a decrease in crime as a result of passing a law restricting private ownership of firearms.

Yet reduction of crime is the ostensible reason for additional gun laws; lacking any evidence of the success of such laws, and abundant evidence of their failure, the only way the advocates can argue for registration, licensing or prohibition is by emotionalism—citing murder and mayhem where guns were involved—and by claiming that "*gun crimes*" are reduced where guns are strictly controlled, which isn't necessarily true, but in any event, it's like saying that there are fewer truck accidents on roads where trucks are prohibited.

The anti-sportsman, anti-hunting, anti-gun element doesn't want to be asked "Where Have Gun Laws Reduced Crime?" If forced to answer they can only make the lame excuse that the laws aren't successful only because they're not strong enough; and if it's pointed out that the strongest possible law—virtual prohibition of handguns—exists in crime-ridden New York City, they blame the "weak laws" in other areas for the failure of their strong laws. But they cannot explain why those areas with "weak laws" have lower crimes rates.

Although the FBI Crime Reports show New York City to have one of the highest murder rates of any major city, and by far the highest robbery rate in the country, the number committed with handguns isn't shown. But the recent report of the New York State Commission of Investigation on the possession and use of handguns shows that there were 795 murders with handguns and 20,422 robberies with handguns in New York City in 1973. On the basis of the 1970 population of the five boroughs, the city's handgun murder rate is 10.1 and the handgun robbery rate is 258.7 per 100,000 residents. By comparison, the U.S. handgun murder rate outside New York City is about 4.7 while the handgun robbery rate is about 61.6 per 100,000 residents. In other words, despite its handgun law, New York City residents are more than twice as likely to be murdered *with a handgun* as in the rest of the nation, and more than four times as likely to be robbed *with a handgun*!

While numerous cities and states have passed firearms licensing and registration laws in recent years, their crime rates have continued to climb apace with, or have leaped ahead of, both the national averages and their neighboring cities and states without the "benefits" of such laws. If it were not so, the advocates of gun control laws would be trumpeting the news; but lacking any successes, and in order to turn attention away from their failures, they talk about the low crime rates and stiff gun laws of foreign countries, particularly England and Japan.

But as Inspector Colin Greenwood of the West Yorkshire Constabulary has shown in his excellent book, *Firearms Control* (Routledge & Kegan Paul), more firearms crime is committed in England today than before the imposition of extremely restrictive gun laws a half-century ago. Further, though New York City's laws are more restrictive than London's, there are 15 times as many murders in the U.S. city.

Although few murders are committed in Japan, *even fewer are committed in the U.S. by Japanese-Americans*. The murder rate in Tokyo in 1970 was 1.9 per 100,000 residents; in the past five years, an average of less than three per year of the 591,000 Japanese-Americans were arrested for murder, a rate of 0.47 per 100,000 residents.

Because about 80 percent of murders are solved by arrest, the FBI arrest figures by race, when compared to the 1970 population of each group, provides meaningful insights into the differences in cultures, and often-related socio-economic problems, among U.S. citizens of different origin. While the 1973 rate of arrest for murder among identified groups is lowest for Japanese, at 0.5, the murder arrest rate for Chinese-Americans is 4.1 per 100,000 residents; for American Indians, 14.9; for Negroes, 33.1; and for Whites and "others," 2.9. A similar pattern is evident in those arrested for robbery, though the figures are less meaningful, since only 27 percent of robberies are cleared by an arrest; the 1973 robbery arrest rate for Japanese is 3.5 per 100,000; for Chinese, 13.1; for Indians, 76.6; for Negroes, 235.6; and for Whites and "others," 16.8.

Obviously, if such wide discrepancies exist among sub-cultures within the U.S.—all groups equally exposed to the availability of guns—then it's ridiculous to attempt to compare U.S. laws and crime rates to foreign cultures.

Because the question "Where Have Gun Laws Reduced Crime?" is unanswerable, it needs to be asked at every opportunity. And that's why we've produced a bumper sticker asking that crucial question.

Frankly, we've never cared for bumper stickers, but like obnoxious television commercials, they have proved extremely effective both in elections and commercial advertising—and they're the cheapest form of mass advertising. Proof of the effectiveness of the two best-known "pro-gun" bumper stickers—"When Guns Are Outlawed, Only Outlaws Will Have Guns" and "Guns Don't Kill People, People Kill People"—is the frequency with which they've been quoted, and misquoted, by the opposition. But both of those slogans are defensive and produce negative reactions, for one shows a defeatist attitude ("If Guns Were Outlawed . . ." would have been far better) and the other reminds the public that some people with guns kill people, which is the way it's been used against us.

"Where Have Gun Laws Reduced Crime?" puts the opposition on the defensive, for if we broadcast the message far enough and long enough, the great majority of people in the middle, who have no strong feelings concerning guns, will insist that it be answered.

We're not interested in making a profit from the stickers—the price is two for \$1 or ten for \$3—but we hope you'll buy several to give to friends. Better yet, clubs and organizations can print their own locally, substituting their name and address on the sticker so others will know where to get them. This will cut costs to a minimum by eliminating handling and postage expenses. You don't need our permission; there's no copyright on the slogan.

The important thing is to get thousands of cars and store windows asking that crucial question, and as quickly as possible, for the new Congress appears certain to give gun owners trouble and plenty of it. If enough stickers appear, "Where Have Gun Laws Reduced Crime?" will be the most-asked question in letters to lawmakers and newspapers—and the "gun controllers" cannot answer it.—Neal Knox

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TARRANT COUNTY PAWNBROKERS ASSOCIATION,  
Fort Worth, Tex, July 18, 1975.

MR. GERALD R. FORD,  
President, United States of America  
Washington, D.C.

DEAR PRESIDENT, We have noted in the news media that you are planning to send to Congress a Gun Control Bill. We would like to inject a few thoughts into your bill.

As Gun Dealers and Pawn Brokers, this group represents many decades of experience as Gun Dealers.

We are 100 percent in agreement with you that the so called "Saturday Night Specials" should be eliminated from the market place. We urge Congress to stop all importing and U.S. manufacturing of all low grade hand guns and parts.

Also, we recommend that the Congress empower the ATF to repurchase as many as possible of the outstanding "Saturday Night Specials" and appropriate the proper funds. We also urge that these guns be bought back through the Dealer Organizations.

A registration fee or tax on any gun sold in the future of \$15.00 per transfer. One third of which we recommend to go directly to the dealer to handle the paper work and storage of waiting period guns and of the 4473 forms kept for the ATF. The Treasury portion of the tax could be used to buy the "Saturday Night Specials."

The following are our recommendations pertaining to the sale of guns:

1. Registration of all guns that shoot powder driven projectile, Black Powder and Curios, included.
2. A clear cut definition of a dealer and also a definition of a Saturday Night Special. We suggest these guns be identified by Make, Model, Etc.
3. It is recommended that the dealers license be increased from \$25.00 to \$500.00 per annum. Also that persons selling guns at Flea Markets, Gun Shows, Garage Sales or any other type of bartering be placed under this ruling.
4. We heartily recommend that the ATF be expanded substantially to be in a position to handle the new laws efficiently. We concur with your thoughts that a mandatory sentence be given anyone committing a crime with a gun.
5. A 4473 form must be filled out by any person purchasing or obtaining a firearm from any source. They should go through a dealer and adhere to the 3 day waiting period and pay the tax of the transfer. Failing to do so would constitute a felony.
6. We recommend that Pawned Guns be handled separately. When the original pawnor redeems a firearm there should be a three day waiting period. Multiple gun sales (Section 178.126a of Title 26) should not apply to firearms redeemed by the pawnor.
7. We recommend that restitution should be made a part of all criminal prosecution.
8. It is recommended that our 18 year olds be allowed to buy handguns as well as long guns since they are old enough to serve in the Armed Forces and vote.
9. It is recommended that better protection be afforded our military arsenals as a large number of Automatic Weapons and destructive devices are being stolen from these installations.
10. It is further recommended that certain businessmen operating in high crime areas be allowed a permit to carry a weapon for their protection. This permit to be issued by the ATF.
11. It is recommended that all gun transactions be governed by one Governmental Agency, namely the ATF.

We have a number of dealers that are available for testimony before any hearing that might take place in Washington on the above subjects.

We congratulate you on taking a stand on crime in the streets and the proper regulation of guns.

Sincerely yours,

H. A. WALTERS,  
*President.*

JOE MAY,  
BOB WHITEHEAD,  
JESS MAYFIELD,  
H. A. WALTERS,  
*Gun Committee.*

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DEAR SIR: I heard your name mentioned on television in connection with proposed gun control legislation. Please find enclosed a poem. If you should deem it expedient to use it in your work I would be honored.



Those who'd go to church on Sunday  
 Who'd buy their boy on Monday

A gun  
 Symbol of crime and war  
 What do they train him for.

First to kill the little wild things  
 Where is that mocking bird  
 That used to sing  
 Upon my rooftop in the night  
 When the moon was shining bright  
 As many a dawn  
 Has came and gone  
 Since I heard a quails lovely song,

A boy does grow to be a man  
 Learns to use a bigger gun  
 And them

In wars again to kill  
 Life but like his own  
 This morbid thought I do not will  
 But put into this poem

Those who'd go to church a Sunday  
 But buy their boy a toy a Monday

A gun  
 Symbol of crime and war  
 Can not very well  
 To me their doctrimines sell

But when they can instill  
 Within their son  
 A greater love

Than for a gun  
 The world will them resound  
 With joyful sound

The gun just must  
 Be left to rust

Upon the ground  
 Where it belongs  
 Beneath the Songs

Still those battle symbols  
 Those Harbingers of death  
 That we may list to mother hums  
 And songs of birds instead

—A. J. STEHLIK, *Poet.*



# UNITED STATES CATHOLIC CONFERENCE

Department of Social Development and World Peace

1312 MASSACHUSETTS AVENUE N.W., WASHINGTON, D.C. 20005 (202) 659-6820

Office of the Secretary

September 25, 1975

The Honorable Birch Bayh  
Chairman, Senate Subcommittee to  
Investigate Juvenile Delinquency  
363 Russell Building  
Washington, D. C.

Dear Senator Bayh:

The Social Development and World Peace Committee of the U. S. Catholic Conference has recently adopted the enclosed policy statement on handgun control. We would appreciate the opportunity to testify when your Subcommittee holds hearings on this issue.

The statement entitled, "Handgun Violence: A Threat To Life," calls for "effective and courageous action to control handguns, leading to their eventual elimination from our society."

The Bishops' Committee said only prohibiting the importation, manufacture, sale, possession and use of handguns with exceptions for police, military, security guards and pistol clubs will provide a comprehensive response to handgun violence.

The Committee also expressed support for other measures including a cooling-off period, a ban on "Saturday Night Specials," registration of handguns and licensing of handgun owners and more effective enforcement of existing laws.

The U. S. Catholic Conference hopes you and your Subcommittee will provide effective leadership in reversing the rising tide of handgun violence. We look forward to working with you in support of strong handgun control.

Sincerely,

Msgr. Francis J. Lally  
Secretary, Department of Social  
Development and World Peace

Enclosure





# NEWS

DATE: September 15, 1975

FROM: Russell Shaw

## CATHOLIC CONFERENCE BODY ASKS TOUGH NEW CONTROL OF HANDGUNS

WASHINGTON--The Social Development and World Peace Committee of the U.S. Catholic Conference (USCC) has called for "effective and courageous action to control handguns, leading to their eventual elimination from our society."

In a statement approved for publication by the USCC Administrative Board, the Committee on Social Development and World Peace said: "The unlimited freedom to possess and use handguns must give way to the rights of all people to safety and protection against those who misuse these weapons."

The Committee said only the prohibition of the importation, manufacture, sale, possession and use of handguns, with exceptions for police, military security guards and regulated pistol clubs, would provide a comprehensive response to handgun violence.

USCC is the national level action agency of the Catholic Church in this country. Bishop Joseph A. McNicholas of Springfield, Illinois, is Chairman of its Committee on

NATIONAL CATHOLIC OFFICE FOR INFORMATION

1312 MASSACHUSETTS AVENUE, N.W. • WASHINGTON, D. C. 20005

## Social Development and World Peace.

Following is the text of the statement on handgun control:

### The Problem

There are currently 40 million handguns in the United States.<sup>1</sup> More than 2½ million new handguns will be manufactured and sold this year. In most of our cities and rural areas, purchasing a weapon is as easy a buying a camera.

In 1973, the last year for which complete figures were available, there were 28,000 firearms deaths.<sup>2</sup> In 1975, it is estimated that nearly 30,000 will die from gunshot wounds. Added to this are over 100,000 people wounded by guns each year, the victims of 160,000 armed robberies and 100,000 assaults with guns.<sup>3</sup>

Gun accidents are now the fifth most common accidental cause of death according to the National Safety Council. In 1973, 2,700 people died in gun-related accidents.

Some have suggested that homeowners and citizens should arm themselves to protect their families from murder, assault or robbery. The sad fact is that a handgun purchased for protection is often used in a moment of rage or fear against a relative or acquaintance. A recent study in the Cleveland area indicates that guns purchased for protection resulted in the deaths of six times as many family members, friends and neighbors as intruders or assailants.<sup>4</sup> The 1973 FBI Uniform Crime Report indicates that of all murders almost 25% involved one family member killing another and an additional 40% occur among people who are acquainted. Most homicides are not the result of criminal design but rather they are the outcome of quarrels and arguments among spouses, friends and acquaintances. In these situations, it is the ready availability of handguns that often leads to tragic and deadly results.

Handguns play a disproportionate role in gun violence. They account for 53% of all murders, yet make up only 20% of all firearms. The problem is growing. The annual sales of handguns have quadrupled in the last ten years.

### A National Firearms Policy

The growing reality and extent of violent crime is of great concern to the Committee on Social Development and World Peace and all Americans. It threatens more and more of our citizens and communities. The cost of this

violence in terms of human life and suffering is enormous. We speak out of pastoral concern as persons called to proclaim the Gospel of Jesus, who "came that they may have life and have it to the full." (John 10:10). We are deeply committed to upholding the value of human life and opposing those forces which threaten it.

One of these factors is the easy availability of handguns in our society. Because it is so easily concealed, the handgun is often the weapon of crime. Because it is so readily available, it is often the weapon of passion and suicide.

This is clearly a national problem. No state or locality is immune from the rising tide of violence. Individual state and local action can only provide a partial solution. We must have a coherent national firearms policy responsive to the overall public interest and respectful of the rights and privileges of all Americans. The unlimited freedom to possess and use handguns must give way to the rights of all people to safety and protection against those who mis-use these weapons.

We believe that effective action must be taken to reverse this rising tide of violence. For this reason, we call for effective and courageous action to control handguns, leading to their eventual elimination from our society. Of course, reasonable exceptions ought to be made for the police, military, security guards and pistol clubs where guns would be kept on the premises under secure conditions.

We recognize that this may be a long process before truly comprehensive control is realized. We therefore endorse the following steps to regulate the use and sale of handguns:

- 1) A several day cooling-off period. This delay between the time of the sale and possession of the handgun by the purchaser should result in fewer crimes of passion.
- 2) A ban on "Saturday Night Specials." These weapons are cheap, poorly made pistols often used in street crime.
- 3) Registration of handguns. This measure could provide an improved system of tracing weapons by law enforcement officials. Registration will tell us how many guns there are and who owns them.

- 4) Licensing of handguns owners. Handguns should not be available to juveniles, convicted felons, the mentally ill and persons with a history of drug or alcohol abuse.
- 5) More effective controls and better enforcement of existing laws regulating the manufacture, importation and sale of handguns.

These individual steps will not completely eliminate the abuse of handguns. We believe that only prohibiting the importation, manufacture, sale, possession and use of handguns, with the exceptions we have already cited, will provide a comprehensive response to handgun violence.

### Conclusion

We realize this is a controversial issue and that some people of good faith will find themselves opposed to these measures. We acknowledge that controlling possession of handguns will not eliminate gun violence, but we believe it is an indispensable element for any serious or rational approach to the problem.

We support the legitimate and proper use of rifles and shotguns for hunting and recreational purposes. We do not wish to unduly burden hunters and sportsmen. On the contrary, we wish to involve them in a joint effort to eliminate the criminal and deadly mis-use of handguns.

We are, of course, concerned about the rights of the individual, as these rights are grounded in the Constitution and in the universal design of our Creator. We are convinced that our position is entirely in accord with the rights guaranteed by our Constitution, and particularly with the Second Amendment to the Constitution as these rights have been clarified by the United States Supreme Court. We affirm the traditional principle that individual rights to private property are limited by the universal demands of social order and human safety as well as the common good.

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<sup>1</sup>Estimate of the Division of Alcohol, Firearms and Tobacco, U.S. Department of the treasury. Handgun refers to a fire-arm held and fired by the hand, usually a pistol or revolver. It does not include rifles, shotguns, long guns or other shoulder arms.

<sup>2</sup>There were 13,070 murders involving firearms according to Crime In The United States 1973, the FBI Uniform Crime Report (September, 1974). In addition, there were 2,700 deaths involving firearms accidents according to Accident Facts, National Safety Council. And, approximately 13,317 people committed suicides with firearms according to the National Center for Health Statistics.

<sup>3</sup>Crime In The United States 1973, FBI Uniform Crime Report. September 1974.

<sup>4</sup>A 1968-1972 study of the Medical School of Case Western University. Of the 131 persons killed, 114 were family members or other acquaintances killed because a gun was present in the home and 17 were robbers or other persons engaged in criminal activity.



STATEMENT OF MILTON S. EISENHOWER, BEFORE THE SUBCOMMITTEE TO INVESTIGATE  
JUVENILE DELINQUENCY, JUNE 24, 1976

Since I am not a specialist on juvenile delinquency, the only justification for my accepting your invitation to meet with you this morning is that total criminal activity in the United States (a problem which I have studied in depth) includes a disturbing number of young people.

The report of the Federal Bureau of Investigation for 1974 analyzed 10.2 million crimes. We may confidently assume that the actual number of crimes was about 15 million, since many are not reported to the police or the FBI.

The problem centers in the large cities where the rate of crime is eleven times that of rural areas, eight times the average rate for all areas outside major cities.

In the cities, the most criminogenic group is 15 to 24 years of age; these young people commit three times as many illegal offenses as any other age group. But the 10 to 14-age group is becoming a serious threat: criminal activities by these youngsters increased three hundred percent in the sixties, and each subsequent year the problem has become more pronounced.

A high percentage of young offenders live in the ghettos, but I emphasize that one race is no more criminogenic than another. This has been substantiated by research over a long period of years.

Before I suggest causes, let me point out that the rate of crime in this country after declining from 1900 to about 1950, increased slightly during the 1950's, suddenly doubled in the 1960's and increased another fifty percent in the 1970's.

Specifically, from 1960 to 1974, the murder rate increased 90 percent, rape 175 percent, armed robbery 248 percent, and the national average of all so-called index crimes 157 percent.

Why are we suddenly faced with criminal activity that threatens the very character and quality of American life? Why are juveniles prominent in this tragic development?

The answers are found in no single circumstance, but in inter-related developments too numerous for me to discuss this morning. I shall mention only a few highlights.

We are now an urbanized society. Including their suburbs, major cities contain more than 70 percent of the total population. Since the highest rate of crime is in the cities, the shift of people from the countryside and small towns to urban environments is relevant to the problem you are considering.

The welfare system must accept some of the blame. In 1960, fifty percent of ghetto families had fathers as well as mothers. By the end of the decade, only twenty percent had fathers. Many fathers, including those with jobs, left home, and the mother and children went on relief. Mothers worked as much as possible without impairing relief payments. This left children with little home supervision. The children spent more time before television screens, mainly watching programs of violence, than they spent in school. The life of the street and the life of television were strikingly similar. Children did not distinguish between fact and fiction. Psychiatrists insist that the attitudes and behavior of young persons are powerfully affected by television. We now have a television generation and criminal activity of this group is high.

The spirit of lawlessness which is abroad in the land is prevalent among the young. When juveniles learn that governors defy court orders, that fraud is widespread in local, state and Federal governments, that even a President and a Vice President violated the public trust, that crime pays, and this knowledge blends with other conditions I am mentioning, it is little wonder that they are stimulated to steal handbags, then cars, and next join peers in armed robberies in which violence may result.

I said crime pays. At the end of the decade of the sixties, when there were more than ten million crimes in one year, only twelve percent resulted in arrests, six percent in convictions or confessions, often at reduced charges, and only one and a half percent in incarcerations. As the distinguished lawyer, Lloyd Cutler, Executive Director of the President's Commission on the Causes and Prevention of Violence, of which I served as chairman, said: "The criminal justice system does not detect, does not convict, and does not correct." The last word in this phrase is based on the fact that 65 percent of all crimes are committed by recidivists, a fact which applies to both juveniles and adults.

Still another cause of the increased rate of crime in the 1960-1974 period, including criminal activity by the young, was the intense disappointment by

minorities that followed a spectacular rise of expectations. Political leaders and others, beginning in the mid-fifties and reaching a height in the early sixties, promised justice for minorities in our country, promises which could be achieved even under the best of circumstances only over a considerable period of time. Temporarily, these promises brought hope, even elation, to vast numbers. The bitter disappointment which followed guaranteed an increased rate of crime, as all research by sociologists, criminologists, and psychologists proves.

The flight of many city residents to the suburbs was another cause. Many who could afford to do so moved to the suburbs which themselves became armed camps and electronic sanctuaries. This decreased city tax bases and threatened the solvency of cities, thus reducing the volume and quality of essential services.

The developments which caused increased crime also led to a greatly increased use of drugs, especially among the young. Drugs themselves are not a direct criminogenic influence. It is the cost of the drugs that drives users to lives of crime.

Finally in this abbreviated list of causes, I must mention the unprecedented increase in the inventory of concealable handguns—handguns available to all, including juveniles. More than 46 million concealable handguns are in the hands of the American people, and at least three million are added to the inventory each year. Handguns are used in 54 percent of murders, a higher percentage in other crimes, such as robbery and assault.

In a few moments I have sketched a dismal picture. What should we do? I must emphasize again that I cannot suggest what must be done about *all phases of juvenile delinquency*. I can speak only about what needs to be done about total crime, including crime by juveniles.

First, we must expand and improve the criminal justice system, so that it does detect, convict, and correct.

Second, we must overcome the social causes of crime. This requires among many other things, eliminating ethnic and racial concentrations, providing better schools and better education, reforming the welfare system, equal job and promotion opportunities, finding an acceptable way to check the glorification of crime by television, and gradually eliminating black racism and white racism.

These two attacks will cost a great deal, probably \$4 billion a year for the expansion and improvement of the criminal justice system, and as much as \$20 billion a year to eliminate as quickly as possible the social causes of crime. Part of the social costs can be met by changing present laws and programs. But the total cost will be feasible only if we have the courage to insist upon austerity in government and to reorder national priorities, for if we merely add costs such as these to what we now spend, we shall face national bankruptcy and gain chaos, not a peaceful society.

But the third thing we can do would involve only modest cost and could be done quickly.

We should eliminate by purchase the entire inventory of concealable handguns, save those in the possession of persons who could prove the need for licenses to have such weapons.

I know all the blatant objections which fill the mails and legislative halls when this point is made. But as the Commissioner of Police of Boston said last year to a Senate Committee: "I do not understand why we work for universal arms reduction on the theory that this will promote *universal* peace, but stubbornly refuse to do anything about domestic disarmament on the theory that such action will *not* promote *domestic* peace."

Opponents say that the constitution guarantees the right of individuals to possess guns, including concealable handguns. This is not true and those who say it know it is not true. The Supreme Court settled that question a hundred years ago and state courts have upheld most gun-control laws.

It is said that handguns are essential in the home for family protection. In *only three-tenths of one percent of all intrusions* into homes is a protective weapon used to injure or frighten away the intruder. Yet these very guns are responsible for eighty percent of all murders, a high percentage of assaults and it is usually these guns that are taken by juveniles to school where a classmate may be shot, not an uncommon occurrence in our disturbed society.

Opponents to the control of concealable handguns say that a law to eliminate them would be obeyed by good people, not by the criminally-prone. Here it is important to remember that the police know the criminal recidivists, but normally they can act only after a crime has been committed or is being committed, and

then a conviction can be obtained only with convincing evidence. The Supreme Court has ruled that police may frisk suspects. A recidivist with an unlicensed handgun could be arrested and convicted on the physical evidence alone. Thus, we would soon see a remarkable improvement. Certainly the murder and assault rate would drop precipitately.

We are the only advanced, civilized nation without gun control. Our rate of crime is 5 times that of Canada, 30 times that of the United Kingdom, and 90 times that of the low countries and Japan.

Nothing I have said applies to shotguns, rifles, and other sporting weapons. Juvenile delinquency, total crime, persistent inflation, a fluctuating economy, unemployment, massive Federal deficits which remove from the money markets funds that ought to be used by private enterprise for production and jobs, a pervasive spirit of lawlessness, and cynicism about democracy and representative government, threaten our future. It is imperative that we establish priorities so as to begin now to correct what we know is destroying the social fabric. I congratulate and thank you for giving time to one major aspect of the total problem.



## **PART 3—STATE LAWS, RESOLUTIONS AND POLICY POSITIONS**

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### **STATE LAWS**

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# **Digest of STATE FIREARMS LAWS**

Compiled by NRA Legislative Information Service

A digest of the principal provisions of the firearms laws of the fifty states, the District of Columbia, Puerto Rico, and the Virgin Islands, as well as the firearms laws of some of the principal cities of the nation, are given on the following pages.

If you desire information about the gun control laws of any jurisdiction in addition to that which is presented here, you are advised to contact the law enforcement agency of that jurisdiction. If the law-enforcement agency does not have the information, it can direct you to the office that can supply the information you desire.

1975 NRA Firearms & Laws Review 109

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## ALABAMA STATE FIREARMS LAW

A person must have a license to carry a handgun in any vehicle or concealed on or about his person, except on his land, in his home or fixed place of business.

Among the exceptions to the requirement of the license to carry are the regularly enrolled members of any organization authorized to purchase or receive firearms from the United States, or from this state, provided such members are at or going to or from their places of assembly or target practice. (NRA members are authorized to purchase firearms from the Federal Government.)

The sheriff of a county in which the applicant resides may issue a qualified or unlimited license to carry a handgun for one year from date of issuance, "if it appears that the applicant has good reason to fear injury to his person or property, or has any other proper reason for carrying a pistol, and that he is a suitable person to be so licensed."

A period of at least 48 hours must elapse between the time of application for the purchase of a handgun and delivery thereof by the seller. At the time of application for purchase, the purchaser signs in triplicate and delivers to the seller a form containing full names, address, occupation, color, place of birth, date and time of application, the caliber, make, model and manufacturer's number of the handgun to be purchased, and a statement that the purchaser has never been convicted in Alabama or elsewhere of a crime of violence. One copy of the statement is sent to the local police chief or county sheriff, another copy of the statement to the State Director of Public Safety.

No person who has been convicted of a felony or who is a drug addict or an habitual drunkard may own or possess a handgun.

No person shall deliver a handgun to a person who is under the age of 18 years or to one who the transferor has reasonable cause to believe has been convicted of a crime of violence, or who is a drug addict or an habitual drunkard or of unsound mind.

No permit or license is required for the possession, purchase or carrying of a rifle or shotgun.

Antique pistols sold, purchased or possessed as curiosities or ornaments are exempt from the handgun law but may not be carried concealed on the person or transported loaded.

Retail dealers in handguns may be licensed by the licensing authorities of a city, town or other political subdivision of the state.

A resident of Alabama may purchase rifles or shotguns from a federal firearms licensee in an adjoining state, provided that the sale complies with the requirements for sale in both states and the provisions of the Federal Gun Control Act of 1968.

## ALASKA STATE FIREARMS LAW

The state law prohibits the carrying of any pistol or revolver concealed on or about the person.

No one who has been convicted of a felony or a misdemeanor involving assault and battery, assault with a dangerous weapon, burglary, robbery and similar crimes shall own, possess or carry a weapon.

No alien shall hunt or possess any firearm without first securing a special alien license.

No license or permit is required to purchase, possess or carry a handgun, rifle or shotgun.

## ARIZONA STATE FIREARMS LAW

No person may carry a firearm concealed on his person. A person carrying a concealed weapon may be arrested without warrant at any time of the day or night.

A firearm is not concealed if it is unloaded and carried in a belt holster wholly or partially visible, or is carried in a gun scabbard or case wholly or partially visible; or if it is in a closed trunk, luggage or glove compartment of a motor vehicle.

No license or permit is required to purchase, possess, carry, sell or transfer a firearm.

Any person, other than a peace officer on duty, upon entering a public place or attending a public event, may be required by the operator of the establishment or the sponsor of the event to remove his firearm and place it in the custody of such operator or sponsor.

No person convicted of a crime of violence may possess a handgun unless such person has been pardoned or has regained full status as a citizen. ("Crime of violence" means murder, manslaughter with a dangerous weapon or implement other than an automobile, assault with a dangerous weapon, rape, mayhem, kid-

napping, robbery, burglary or assault with intent to commit any offense punishable by imprisonment for more than one year.)

No person may sell or give to a minor under that age of 18 years, without written consent of a parent or guardian, a firearm or ammunition therefor. (However, children in school who are at least 10 years of age may receive training in the proper use and handling of firearms as part of the public school curriculum.)

No person may discharge any firearm within any municipality except as follows: (1) in necessary self-defense; (2) in defense of property; (3) on a properly supervised range; (4) in an area recommended as a hunting area by the Arizona Game and Fish Department, and approved and posted as required by the chief of police; (5) for the control of nuisance wildlife by permit from the Game and Fish Department or the United States Fish and Wildlife Service; (6) by special permit of the chief of police.

A resident of Arizona may purchase rifles or shotguns from a federal firearms licensee in an adjoining state, provided that the sale complies with the requirements for sale in both states and the provisions of the Federal Gun Control Act of 1968.

## ARKANSAS STATE FIREARMS LAW

The state law prohibits the carrying or wearing, concealed or openly and "as a weapon" (that is, going armed), of any pistol or revolver.

Exceptions to the foregoing are: (1) the carrying of an Army or Navy pistol openly and "in the hand"; (2) the carrying of any firearm when on a journey or on one's premises.

No permit or license is required for the purchase, possession or carrying of a firearm.

No firearms may be possessed in any wildlife management area except during hunting seasons.

The possession or use of buckshot or rifled slugs and rifles or pistols larger than .22 caliber rimfire in the field during closed gun season on deer and turkey is prohibited.

A resident of Arkansas may purchase rifles or shotguns from a federal firearms licensee in an adjoining state, provided that the sale complies with the requirements for sale in both states and the provisions of the Federal Gun Control Act of 1968.

## CALIFORNIA STATE FIREARMS LAWS

State law preempts the field of the registration and licensing of commercially manufactured firearms. State statutes in this area of firearms control exclude the operation of local ordinances on licensing or registration.

No person who is not a citizen, or who is a drug addict, or who has been convicted of a felony in any foreign or domestic court, may own, possess or have under his custody or control any concealable firearm. A concealable firearm is any pistol or revolver (including frame or receiver) or pellet or rocket gun which has a barrel less than 12 inches in length.

No person who has been adjudicated by a court to be a danger to others as a result of a mental disorder or illness after October 1, 1955, shall have in his possession or control any firearms unless there has been issued to such person a certificate by the superintendent of any California state hospital, stating that the applicant is a person who may possess a firearm without endangering others.

A person must have a license to carry a handgun concealed upon his person or concealed within any vehicle. (There is no statutory definition of what constitutes "concealed within a vehicle". This is a matter of court interpretation.)

No license is required for possessing or keeping a handgun in one's residence or place of business, or for carrying a handgun openly in a belt holster.

Application for a license to carry a concealed handgun is made to the sheriff of a county or head of the police department of any city or county. The application must contain a description of the firearm, including serial number, and reason for desiring a license. A license (restricted or unrestricted) may be issued for a period of one year upon proof that the applicant is of good moral character, that good cause exists for the issuance of the license, and that he is a resident of the county in which the application is made.

No loaded firearm may be carried openly on the person or in a vehicle in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory, unless a person is shooting at a range or hunting on the premises of a shooting club of which he is a member, or is authorized to carry a concealed weapon. Further, a person may carry a loaded firearm in an area within an incorporated city while hunting

during such time and in such area in which hunting is not prohibited by city council. (A loaded firearm includes, but is not limited to, ammunition contained in the firing chamber, magazine, or clip attached to the firearm.)

The carrying of firearms and ammunition within the State Capitol, any legislative office or hearing room, office, or residence of the Governor or other constitutional officer, or within the residence of any member of the Legislature or upon the grounds of the State Capitol or any public school, is prohibited.

Among the exceptions to the requirement of a license to carry a handgun are the following: (1) members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, public or private, while such members are using handguns upon such target ranges, or while going to or from such ranges; (2) licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such an activity; (3) members of any club or organization organized for the purpose of collecting and displaying antique or historical firearms, while such members are displaying such firearms at meetings of such clubs or organizations, or while going to and from such meetings, or individuals who collect such firearms not designed to fire, or incapable of firing, fixed ammunition, or who collect other firearms, of obsolete ignition type for which ammunition is not readily available and which are generally recognized as collector items, provided such firearms are kept in the trunk of a motor vehicle while going to or returning from a meeting or show. (If the vehicle is not equipped with a trunk, a firearm must be kept in an area of the vehicle other than the utility or glove compartment.)

A period of five days shall elapse between the time of application for the purchase of a concealable firearm and delivery thereof by the seller. Further, no such firearm may be delivered unless the purchaser either is personally known to the seller or presents clear evidence of his identity. When delivered, the firearm must be unloaded and securely wrapped.

Any person, other than a licensed California firearms dealer, who orders a concealable firearm by mail must, at least five days before ordering such firearm, file with the head of the local police (city or county) wherein such person maintains his residence or principal place of business, a record in duplicate of

such ordering. The local municipality may charge a fee not exceeding \$1 for filing such record and shall send the duplicate of such record to the Bureau of Criminal Identification and Investigation at Sacramento. Within 14 days after receipt of such a firearm, the purchaser must forward the serial number and description of the firearm to the Bureau.

Retail handgun dealers must be licensed by the local licensing authorities. No license is required for the sale or transfer of firearms between private persons who are not dealers.

A minor may not possess a concealable firearm unless he has the written permission of his parent or guardian or is accompanied by his parent or guardian while he has such firearm in his possession.

A person may sell a firearm to a minor who is at least 16 years of age but not over the age of 18 years with the written consent of a parent or legal guardian of such minor. Further, a person may furnish a firearm, air gun or gas-operated gun to a minor under the age of 18 years with the express or implied permission of the minor's parent or legal guardian.

No license or permit is required to purchase, possess or carry a rifle or shotgun.

A person must have a permit from the Chief of the Bureau of Criminal Identification and Investigation in order to possess or transport a machine gun. The term "machine gun" is defined as "any weapon which shoots, or is designed to shoot, automatically or semiautomatically, more than one shot, without manual reloading, by a single function of the trigger, and includes any frame or receiver which can only be used with such weapon", or "any combination of parts designed and intended for use in converting a weapon into a machine gun".

No person may manufacture, cause to be manufactured, import into the state, keep for sale, offer or expose for sale, or give, lend or possess any shotgun having a barrel or barrels of less than 18 inches in length, or any rifle having a barrel or barrels less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than 26 inches.

The possession, transportation, sale, manufacture, importation, exportation or theatrical use of any "destructive device" (bomb, grenade, rocket, explosive missile, etc., or weapon greater than .60

caliber other than a shotgun or shotgun ammunition) is prohibited without a special permit issued by the Chief of the Bureau of Criminal Identification and Investigation.

A permit is required from the Bureau of Criminal Identification and Investigation for the possession or transportation of tear gas devices.

Any two or more persons who assemble as a paramilitary organization for the purpose of weapons practice shall be punished by imprisonment up to one year or by a fine of up to one thousand dollars. ("Paramilitary organization" means an organization which is not an agency of the Federal or State Government, or which is not an accredited private school, but which engages in instruction or training in guerrilla warfare or sabotage, or in rioting or the violent disruption of, or violent interference with, school activities.)

A parent or guardian shall be jointly and severally liable (for civil damages) for any injury to the person or damage to property caused by the discharge of a minor under 15 years of age if such parent or guardian either permitted the minor to have the firearm or left the firearm in a place accessible to the minor.

#### COLORADO STATE FIREARMS LAW

A person must have a written permit to carry any handgun concealed upon the person. This permit is obtained from the police chief of a city, mayor of a town or sheriff of a county.

No permit is required for carrying a concealed firearm in a person's dwelling or on property under his control or direction, or for carrying a concealed firearm in a private automobile or other private conveyance for lawful protection while travelling.

The board of county commissioners of any county may designate (after public hearing), by resolution, areas in which firearms may not be used in the incorporated territory of such county. Exceptions are the discharge of firearms in shooting galleries, or on any private property under circumstances not posing a danger to life or property, and as to prevent any projectile from any such firearm from going beyond the limits of shooting galleries or property.

No license or permit is required to purchase, possess or carry a rifle or shotgun.

No person previously convicted of murder, voluntary manslaughter, assault to commit murder, assault with a deadly weapon, kidnapping, robbery, burglary, rape, mayhem, arson, grand larceny or possession of narcotics may carry concealed or use any concealable firearm, bowie knife or dagger within ten years of such conviction.

No person, except a duly authorized law enforcement agent in the line of duty, may discharge any firearm or arrow from, upon or across a public road or highway.

A resident of Colorado may purchase a rifle or shotgun from a federal firearms licensee in an adjoining state, provided that he complies with the requirements for sale in both states and the purchaser's state of residence permits such sale or delivery.

#### CONNECTICUT STATE FIREARMS LAW

A person must have a permit to carry, concealed or openly, a pistol or revolver.

Application for a local permit to carry within the jurisdiction of the permit-issuing authority is made to the police chief or, where there is no police chief, to the warden of a borough or the first selectman of a town. Application for a state-wide permit is made to the commissioner of state police. (The possession of a local permit is required to obtain a state-wide permit.)

A permit may be issued if the authority finds that the applicant intends to use a handgun lawfully and that he is a suitable person to receive a permit.

The fee for an original local or state permit to carry is six dollars and five dollars for a renewal. A local permit (or renewal) expires five years after the effective date. Any permit may be revoked by the issuing authority for cause.

When a request for an application form for a permit to carry or to sell handguns is made in person at the office of the issuing authority, he shall supply such application form immediately. If the request is made in any other manner, the authority shall supply such application form not later than one week after receipt of the request. If the application form is not supplied within the time limitation, the request shall constitute a sufficient application.

The permit-issuing authority must notify the applicant for a permit within six weeks of application that an application has been approved or denied.

A person may appeal a refusal of an initial handgun permit, or renewal thereof, or a limitation or revocation of such permit, or a refusal to supply an application form, within ninety days of notice of refusal, limitation or revocation to a board of permit examiners by filing a clear and concise statement with the board. The board's decision may be appealed by the applicant or the permit-issuing authority within thirty days of receipt of notice of decision to the court of common pleas for the county in which the person resides or has his place of business.

No permit is necessary for carrying a handgun within a person's dwelling or place of business; from place of purchase to purchaser's residence or place of business; in moving household goods and effects from one place to another; or from residence or business place to place of repair and return from place of repair.

An out-of-state shooter holding a license to carry in his own state and carrying a handgun in or through Connecticut for the purpose of taking part in competitions or attending any meeting or exhibition of an organized collector's group, may carry such handgun without a Connecticut permit.

A firearms dealer may not deliver a handgun to any person except upon written application on a form prescribed and furnished by the State Police. The dealer sends one copy of the completed application to the local police and another to the State Police. Further, no sale or delivery of any pistol or revolver shall be made until the expiration of one week from the mailing of the copies. The waiting period does not apply to the holder of a license to carry or to the purchase of antique handguns (firearms not using fixed ammunition).

No permit is required for the purchase, possession and carrying of rifles and shotguns. However, the law prohibits any person from carrying or possessing a loaded rifle or shotgun in any vehicle. ("Loaded" means a rifle or shotgun containing a cartridge or shell in the barrel, chamber or magazine.)

No person who is an alien or who is under the age of 18 years may lawfully purchase a pistol or revolver. (Under the Federal Gun Control Act of 1968, no person under 21 may purchase a handgun from a federal firearms licensee—manufacturer, importer, or dealer). Further, no person who has been convicted of a felony may possess a handgun.



A retail dealer in pistols or revolver must have a permit. Application for such a permit is made to the local permitting authority.

A written permit from the local authority (mayor or chief of police of a city, first selectman of a town or warden of a borough) is required for a person to carry upon his person an air rifle or BB gun within a city, town or borough. Notice of sale by any person must be forwarded to the police within 24 hours of the sale.

A resident of Connecticut may purchase rifles and shotguns only from a federal firearms licensee (manufacturer, importer or dealer) in a contiguous state, provided that the sale complies with the legal requirements for sale in both states and with the provisions of the Federal Gun Control Act of 1968.

## DELAWARE STATE FIREARMS LAW

No permit is required to purchase or possess a handgun in Delaware.

A license to carry a concealed firearm on the person is required and may be obtained from the prothonotary of the county. It is necessary to have five character witnesses to vouch for the applicant and that his reason to carry a firearm is for protection of his person or property.

No person may possess any loaded rifle or shotgun in or on any vehicle or piece of farm machinery.

A dealer in handguns must be licensed. Application for a dealer's license is made to the State Tax Department.

No person may sell or transfer any pistol or revolver to any minor.

In New Castle County, no person may sell or give to any minor under 16 years of age any firearm or BB or air rifle.

No minor in New Castle County under 16 years of age may possess a BB or air rifle or shot therefor unless the direct supervision of a "full adult".

No person may sell, possess or own a gun which discharges a pellet, slug or bullet by compressed air or spring. This prohibition does not include an air rifle, which does not discharge a round pellet larger than BB shot.

No permit or license is required for the possession, purchase or carrying of a rifle or shotgun.

The possession or carrying of any firearm by an alien is prohibited.

## THE DISTRICT OF COLUMBIA HANDGUN LAW

NOTE: The D.C. handgun law was enacted by the U.S. Congress in 1932. As amended, this law is still in force. However, it should be read in conjunction with Article 50 through 55 of the D.C. Police Regulations (see below), adopted by the D.C. City Council in 1968 and effective February 15, 1969. These regulations provide for the registration of all firearms and the licensing of rifles and shotguns (for purchase, possession or carrying).

The District of Columbia Code requires a license for the carrying of a handgun, either concealed or openly. Exceptions are the carrying of a pistol or revolver in a person's home, place of business or on his property.

Application for a license is made to the chief of police of the District. This official may issue a license "if it appears that the applicant has good reason to fear injury to his person or property or has any other proper reason for carrying a pistol and that he is a suitable person to be so licensed."

No license to carry is required in the case of "regularly enrolled members of any organization duly authorized to purchase or receive such weapons (concealable firearms) from the United States, provided such members are at or are going to or from their place of assembly or target practice". NRA members are authorized by law to purchase firearms from the Federal Government.

No seller may deliver a handgun to the purchaser until at least 48 hours shall have elapsed between the time of application for purchase and transfer by the seller. At the time of applying for the purchase of a handgun, the purchaser must sign in duplicate and deliver to the seller a statement containing his name, address, occupation, color, place of birth, date and hour of application, a description including serial number of the firearm to be purchased, and a statement that the purchaser does not fall under one of the classes of persons prohibited possession of a handgun. The seller signs this statement and sends one copy to the police.

No person under 21 years of age (except where the relationship of parent and child or guardian and ward exists) may purchase a pistol or revolver. Further, no person who is a drug addict, or who has been convicted of a felony in the District or elsewhere, or who is of unsound mind,

or who has been convicted of violating the weapons, prostitution or vagrancy laws, may own or possess a concealable firearm.

If a person commits a crime of violence\* when armed with a handgun or other firearm or dangerous weapon, he may, in addition to the punishment provided by the crime, be punished by imprisonment for an indeterminate number of years up to life as determined by the court. Conviction for a second or subsequent offense shall act as a bar to suspension of sentence or probation.

A firearms dealer must be licensed. Application for a dealer's license is made to the Mayor-Commissioner.

The requirements and restrictions pertaining to the purchase and possession of handguns do not apply to "toy or antique pistols unsuitable for use as firearms".

\*"Crime of violence" means any of the following crimes, or an attempt to commit any of the same, namely: Murder, manslaughter, rape, mayhem, maliciously disfiguring another, abduction, kidnapping, burglary, robbery, housebreaking, larceny, any assault with intent to kill, commit rape, or robbery, assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment in the penitentiary.

## District of Columbia Firearms Regulations

(Articles 50 through 55, Police Regulations of the District of Columbia. Effective February 15, 1969)

### Registration of Firearms

1. No person may possess, sell or otherwise dispose of any handgun, rifle or shotgun unless he holds a registration certificate.

2. A dealer who sells a firearm to a person must obtain from the purchaser an application for registration which must be filed with the Chief of Police at the time of sale.

3. A person who brings or has delivered to him in the District of Columbia any firearm acquired outside the District must register such firearm within 48 hours of entry or delivery of the firearm.

4. A person carrying or possessing any registered firearm shall have the registration certificate on his person or within his immediate custody.

5. A registration application shall contain the following information: (a) name, occupation, residence and business address, and the date of birth of the applicant; (b) make, model, caliber or gauge, manufacturer's identification number, serial number and other identifying marks of the firearm; (c) name and address from whom the firearm was ac-

quired, and date and place of acquisition.

NOTE: Registration forms are available at any police precinct station.

6. The registration fee shall not exceed two dollars for each firearm registered; and no natural person shall be required to pay a registration fee of more than \$100, regardless of the number of firearms registered.

7. A registered owner of a firearm must notify the Chief of Police in writing of the loss, theft or destruction of the registration certificate, or of any change of name or address, within 48 hours of such loss, theft or destruction, or change in name and address.

8. A registered owner of a firearm must notify the Chief of Police in writing of the sale, transfer or other disposition of any firearm within 48 hours of such sale, transfer or other disposition.

9. Registration shall not apply to a licensed retail firearms dealer; or to any non-resident participating in lawful recreational activity with a firearm in the District, and having proof that his possession and carrying of the firearm in his jurisdiction of residence is lawful.

#### *Purchase of Handguns*

1. A person must submit to the seller an application containing certain information on the purchaser and the firearm to be purchased. The statement must be signed by both purchaser and seller, and it must be forwarded by the seller to the Chief of Police.

2. The application must include a declaration of need to purchase a handgun and intended use of the firearm. In addition, fingerprints may be required if deemed necessary for a thorough investigation.

3. The Chief of Police shall not approve an application for purchase if, after investigation, he finds that (a) the applicant is not of sound mind; (b) is a drug addict; (c) has been convicted of a felony; (d) has been convicted of prostitution, keeping a disorderly house or committing a crime while armed; or (e) is under 21 years of age (except in the relationship of parent and/or guardian and ward).

#### *Purchase of Rifles and Shotguns*

1. A person must submit an application for a license to the Chief of Police. The application contains information similar to that required for the purchase of a handgun.

NOTE: Application forms for a rifle or shotgun license are available at any police precinct station.

2. The Chief of Police shall not issue a license to purchase a rifle or shotgun if, after investigation, he finds that the applicant (a) is under 21 years of age; (b) has been adjudicated mentally incompetent or a chronic alcoholic; (c) is a drug addict; (d) has been convicted of, or is under indictment for a crime involving the use of physical force against a person and punishable by imprisonment for more than one year; (e) has been convicted of any offense involving physical assault, or committing a crime while armed or possessing, using or selling narcotics or drugs; (f) has been convicted of any violation of any law restricting the sale, receipt, possession, use or transportation of a firearm or destructive device; (g) suffers from a physical defect making use of a rifle or shotgun unsafe; (h) has indicated by threatening speech or other behavior that he is likely to use a rifle or shotgun unlawfully; (i) has been adjudicated negligent in a firearms mishap causing death or injury to another; (j) is otherwise ineligible to purchase or possess a handgun; (k) has not demonstrated a knowledge of the rifle-shotgun laws of the District, and of the safe and responsible use of a rifle or shotgun; or (l) has vision less than required to obtain a valid District driver's license.

#### *Carrying of Handguns*

1. A license is required to carry a handgun either openly or concealed.

2. Application for a license is made to the Chief of Police. The information in the application is similar to that contained in an application to purchase a handgun.

3. The Chief of Police has discretion to issue or deny a license.

#### *Carrying of Rifles and Shotguns*

1. Application procedure and requirements are the same as those for purchasing a rifle or shotgun.

2. A rifle or shotgun license authorizes a person to purchase, possess or to carry such a firearm.

#### *Purchase of Ammunition*

1. A person must hold a valid certificate of registration to purchase or possess any firearms ammunition.

2. Ammunition may be purchased or possessed only if it is of the same caliber and gauge as the firearms described in the certificate of registration.

3. Legitimate collectors of ammunition may obtain an ammunition collector's certificate from the Chief of Police. Holders of such certificates may purchase ammunition for their collections

without owning a firearm of the same caliber or gauge.

#### *Death of Firearms Owners*

1. Upon the death of a firearms owner, no application to transfer a pistol or a rifle or shotgun license shall be required of an heir or legatee. Such an heir or legatee must satisfy the registration and licensing requirements or sell such firearms within 60 days.

2. An executor or administrator of an estate containing a registered firearm shall promptly notify the Chief of Police of the death of the registered owner, and at the time of any transfer of the firearm, shall return the registration certificate for the firearm to the Chief. The executor or administrator of an estate containing an unregistered firearm shall register such firearm within 30 days of his appointment or qualification as executor or administrator.

#### *Appeal*

When an application for a registration certificate or license is denied, or not acted upon within 30 days of its receipt, or revoked, the aggrieved party may within 5 days appeal in writing to the Commissioner (Mayor) and the Commissioner shall schedule a hearing within 15 days after the appeal. Any final ruling is subject to judicial review.

#### *Loan of Firearms*

Firearms may be loaned for legitimate purposes for a period not to exceed 30 days if:

a. The person to whom the firearm is loaned possesses a valid license; or

b. The person to whom the firearm is loaned is at least 15 years of age, is a member or student of an organization or school which teaches firearm safety and use, and does not possess a license because of his age. It shall be lawful to loan a rifle or shotgun to such a person for instruction, military drill, or legitimate recreational activity, provided such use is supervised by a licensed person, the rifle or shotgun is registered, and is surrendered immediately following its use.

#### *Exceptions to Registration and Licensing*

1. Exempted from coverage under the new regulations are firearms not designed or redesigned to use rimfire or center fire fixed ammunition or manufactured in or before 1898; or any pneumatic gun, spring gun or BB gun which expels a single globular projectile not exceeding .18 inches in diameter; industrial devices; or devices used exclusively for signalling or safety.



2. Exceptions to the requirement of a license to carry a handgun include; (1) transportation of a registered pistol to or from a licensed dealer for purpose of sale or repair; (2) transportation of a registered pistol to home or place of business after the private sale thereof; (3) transportation of a pistol by non-resident engaged in any lawful recreational activity directly to or from such activity, provided such non-resident can, upon demand, exhibit proof that such carrying is permitted where he resides or proof of residence in a jurisdiction which does not license the carrying of a pistol; (4) transportation of pistols by the members of any organization authorized to purchase such weapon from the United States while going to or from place of assembly or target practice.

3. Exceptions to the requirement of a license to carry a rifle or shotgun include non-residents participating in any lawful recreational activity, provided such transportation is legal in their place of residence.

#### *Loss or Theft of a Firearm*

The registered owner of a firearm must notify the Chief of Police in writing of any loss, theft, or destruction of his registration certificate and disposition of a registered firearm. Failure to do so shall be grounds for revocation of any registration certificate held by such individual.

#### *License for Person between 18 and 21*

A person between the ages 18 and 21 may obtain a restricted rifle and shotgun license, provided the permission of the parent or guardian is obtained and the parent or guardian assumes full civil liability for the actions of the applicant. Any license issued pursuant to this provision may be used only during daylight hours and only under the supervision of a firearms license holder.

#### *Dealers*

1. A license from the Commissioner is required to engage in the business of selling, manufacturing or repairing any firearm or ammunition.

2. A manufacturer's or dealer's license is valid for one year from date of issue, and the Commissioner may increase or decrease the license fees from time to time.

3. A dealer who sells a firearm must obtain from the purchaser a completed application for registration and file it with the Chief of Police.

4. A dealer who transports or delivers firearms to another dealer in the District shall, before delivery, furnish to the

Chief of Police an invoice listing his name, home and business addresses, license number, name and address of the dealer to whom such firearms are to be delivered, place of origin of the shipment, quantity of firearms transported and the serial number of each firearm in the shipment. If shipment is by common carrier, a copy of the invoice shall be delivered to the common carrier.

5. A dealer shall submit a periodic report to the Chief of Police on all sales of ammunition. The Chief of Police shall fix the times of reports.

6. All firearms and ammunition at a dealer's place of business shall be kept securely locked at all times except those firearms and ammunition being shown to a customer, repaired or otherwise worked on. If a rifle, shotgun or handgun does not have a serial number, the retail dealer must imbed in the metal portion of the firearm a "unique dealer's ID number."

7. Beginning one year after effective date of these regulations, no retail dealer shall sell any firearm which does not have an identification or serial number stamped onto the metal portion of the firearm.

#### *Voluntary Surrender to Police*

Voluntary delivery and abandonment of any firearms to the Police Department during an amnesty period which the Chief of Police may proclaim at regular intervals shall preclude the arrest and prosecution of a person on a charge of violating the Regulations.

#### *Appeal*

Denial of, or failure to act on, an application for a registration certificate or license within 30 days of receipt of application, or revocation of a registration certificate or license, may be appealed in writing within five days of the denial, failure to act or revocation to the Mayor-Commissioner who shall schedule a hearing within 15 days of the appeal. Any ruling from such hearing or any order of the Commissioner denying an application for a dealer license shall be subject to appropriate judicial review.

#### *Definitions*

"Firearm" means any pistol, rifle or shotgun which will or is designed to, or may readily be converted to, expel a projectile by the action of an explosive; or the frame or receiver of any such pistol, rifle, or shotgun; but does not include a firearm that is not designed or redesigned to use rim fire or center fire fixed ammunition or manufactured in or before

1898. (Spring, air or BB guns do not come within the definition of "firearm".)

"Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

#### *Penalty*

Conviction of a person (other than a dealer) for violation of any provisions of these regulations carries a maximum fine of \$300 or imprisonment for not more than 10 days; conviction of a dealer, a fine of not more than \$300 or imprisonment for not more than 90 days.

### FLORIDA FIREARMS LAWS

The state firearms law provides that a person must obtain a license from the county commissioners in order to have "in his manual possession" or to carry "around with him" a pistol or revolver.

Among the exceptions to the requirement of a license to carry a handgun are: (1) regularly enrolled members of any organization authorized to purchase or receive weapons from the United States or from this state, or regularly enrolled members of clubs organized for target, skeet or trap shooting while at, or going to or from shooting practice, or regularly enrolled members of collector clubs while such members are going to or from their gun shows, conventions or exhibits; (2) a person firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law, or while going to or from such place; (3) a person engaged in, going to or returning from fishing, camping or lawful hunting; (4) a person traveling by private conveyance when the firearm is securely encased, or by public conveyance when the weapon is encased and not in person's manual possession; (5) a person while carrying a handgun unloaded and securely wrapped, concealed or otherwise, from place of purchase to his home or place of business, or to a place of repair or back to his home or place of business.

To receive a license to carry, a person must be over 21 years of age and of good moral character. Further, he must give a bond payable to the governor in the sum of \$100, (\$1000 in Broward and Sarasota Counties) conditioned for the proper and legitimate use of the firearm, with sureties to be approved by the county commissioners.

In all counties with a population of more than 450,000 inhabitants, and not having home rule, the sheriff may issue a

permit to carry a handgun within the county. The license applicant must give bond payable to the governor in the amount of \$500.

The Florida courts have said that a handgun in the dash drawer of an automobile, driven by a person who owns both the firearm and the vehicle, is not in the driver's "manual possession" nor does he "carry it around with him". The carrying of a pistol in an automobile by a law-abiding citizen does not come within the prohibition of the law.

No permit or license is required to purchase a rifle, shotgun or handgun; and there is no state requirement for firearms registration.

No person may sell or otherwise transfer any firearm to any minor under 18 years of age without the consent of the parent or other person having charge of the minor.

No minor under 16 years of age may use for any purpose any BB gun, air or gas operated gun or firearm unless such minor is under the supervision and in the presence of an adult.

No person convicted of a felony in any foreign or domestic jurisdiction may possess or own any firearm. This prohibition does not apply to a person convicted of a felony whose civil rights have been restored, or to a person convicted of a felony for anti-trust violation, unfair trade practice, restraints of trade, non-support of dependents, bigamy or other similar offenses.

No person may assemble handguns with parts manufactured or originating from outside the United States. (This 1972 law was declared unconstitutional by the Florida Supreme Court.)

The cities of Miami and Miami Beach require a form of handgun registration with the police. Miami Beach requires a 72-hour waiting period between purchase and delivery of a concealable firearm. In Miami no person under 21 may purchase a concealable firearm unless application is signed by a parent or guardian; and in Miami Beach, no minor may acquire a handgun.

Dade County (Miami) requires the licensing of employees of firearms dealers; bans the sale of handguns .32 caliber or smaller with a barrel less than three inches; and requires an oral examination of a purchaser of a handgun on the handgun laws.

## GEORGIA STATE FIREARMS LAW

A license is required for having or carrying a handgun outside of one's home, automobile, or place of business.

Application for a license is made to the ordinary of the county in which the applicant resides. The fee for a license is \$3, and the license is valid for a period of three years from the date of issue.

The county ordinary may issue to an applicant a license to have and carry a handgun "in an open manner and fully exposed to view or in his vehicle", provided that the applicant (1) is at least 21 years of age and mentally competent; (2) has not been convicted within the last ten years of a felony or within the last two years of a forcible misdemeanor; (3) gives a bond with a surety approved by the ordinary, payable to the Governor in the sum of \$300 conditioned upon the lawful use of the handgun.

No person may knowingly sell, give or otherwise transfer a handgun to a person under the age of 21 years.

A tax is imposed on every dealer in handguns, rifles and center-fire handguns and rifle ammunition. The tax varies according to the kind of firearms and ammunition dealt in, and the population of the city or town in which the business is located.

Every person, firm, dealer (retail or wholesale) or pawnbroker who sells pistols, revolvers or short barrel firearms of less than 15 inches in length must obtain a license from the State Department of Public Safety. This requirement does not apply to "casual sales" of concealable firearms between individuals, that is, persons not regularly engaged in the business of selling firearms, or bona fide gun collectors.

An applicant for a dealer's license must be at least 21 years of age and not have been convicted of a felony. Further, the applicant must file a bond in the sum of \$1000, payable to the State and conditioned upon faithful performance of the licensing law.

The annual fee for a dealer's license is \$25, and the annual employee license fee is \$3.

No license or permit is required for the purchase, possession or carrying of a rifle or shotgun. (Sawed-off rifles and shotguns are prohibited.)

A person may use firearms on Sunday at a range approved by the sheriff or police chief of the county or municipality in which the range is located and which is

supervised by law enforcement officers or representatives of a gun club.

A resident of Georgia may purchase rifles or shotguns from a federal firearms licensee in an adjoining state, provided that the sale complies with the requirements for sale in both states and the provisions of the Federal Gun Control Act of 1968.

NOTE: There are federal and local firearms-control laws in addition to state laws.

## HAWAII STATE FIREARMS LAW

Every person who brings into Hawaii any firearm of any description (usable or unusable, serviceable or unserviceable, modern or antique) or any ammunition, must register within 48 hours of arrival with the chief of police of the county wherein is the firearms owner's place of business, residence or place of sojourn.

No person may acquire the ownership of any firearm of any description, other than a rifle or shotgun having a barrel length of 18 inches or over, until he has first obtained a permit from the county chief of police.

A license is necessary for the carrying of a handgun and ammunition therefor, openly or concealed on the person. The issuing official is the county chief of police.

No permit to purchase or license to carry may be issued to any person under 20 years of age and no rifle or shotgun may be transferred to such a person. However, a person over 16 years of age and a person under 16 years old who is accompanied by an adult and who has a hunting license may, while actually engaged in hunting or target practice, carry and use any lawfully acquired rifle or shotgun and ammunition therefor.

No license is required for the carrying of a firearm and ammunition (in a wrapper or other suitable container) from a person's home or place of business to a place of repair or a target range.

An exception to the requirement of a license to carry a handgun is a member of any organization authorized to purchase or receive firearms from the United States or the State of Hawaii, provided such member is going to or from his place of assembly or target practice.

No person may possess or carry any loaded firearm in a vehicle or on any public highway, but a person properly licensed may carry a handgun and ammunition therefor on any public highway.

Any person wishing to sell or manufacture firearms for sale at wholesale or retail must have a license.

No person who is a fugitive from justice, or who has been convicted of a crime of violence or of the illegal use, possession or sale of narcotics, may own or possess or have under his control any firearm or ammunition thereof.

No alien may own or possess any firearm unless he has first procured a hunting license and a firearms permit.

#### IDAHO STATE FIREARMS LAW

A person must obtain a permit from the county sheriff in order to carry a firearm concealed on or about his person. The sheriff may issue such permit if he is satisfied as to the necessity for the permit.

No person may sell or give to any minor under the age of 16 years any firearm, gunpowder or ammunition, except shotgun shells and .22 caliber ammunition or smaller, without the written consent of the parents or guardian of such minor.

No minor under 12 years of age may possess any firearms while in the field or forest or in any tent, camp, auto or other vehicle.

No person may carry an uncased rifle or shotgun in the fields or forests without first having procured a hunting license.

No license or permit is required to purchase or possess a handgun, rifle or shotgun.

#### ILLINOIS STATE AND CHICAGO FIREARMS LAWS

No concealable firearm may be delivered to any person until at least 2 hours after application for its purchase by the intended purchaser. No rifle or shotgun may be delivered until 24 hours after application for purchase.

Excepted from the 72 or 24-hour waiting period are: (1) law enforcement officers or a person who desires to purchase a firearm to promote the public interest incident to his employment (bank guard, armed truck guard and the like); (2) firearms sold through the mail to a person not residing in Illinois; (3) firearms sold to a non-resident of Illinois while at a firearms show or display recognized by the Illinois Department of Law Enforcement; (4) firearms sold on a "traded-in" basis.

Both the State Code and the Municipal Code of the City of Chicago prohibit the carrying of a firearm concealed on or

about the person or concealed in a vehicle. Exceptions are: (1) members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using their firearms on such target ranges; (2) licensed hunters and fishermen while engaged in hunting or fishing; (3) transportation of weapons broken down in a non-functioning state or not immediately accessible; (4) carrying on a person's land, in his home or fixed place of business.

No person may carry or possess any firearm or deadly weapon in any place licensed to sell intoxicating beverages, or at any licensed public gathering to which admission is charged, "excluding a place where a showing, demonstration or lecture involving the exhibition of unloaded firearms is conducted."

The sale or transfer of a concealable firearm to a minor under the age of 18 years is prohibited. Also prohibited is the sale of any firearm to a person under 21 who has been convicted of a misdemeanor (other than a traffic offense) or who has been judged delinquent.

Residents must obtain a firearms owner's identification card in order to acquire or possess any firearm or ammunition. An ID card must be issued by the Department of Law Enforcement within 30 days of receipt of application if the applicant (a) is at least 21 years of age, or if under 21, has the written consent of his parent or guardian and has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent, and the parent or guardian has an ID card; (b) has never been convicted of a felony or confined to a penitentiary within the last 5 years; (c) is not addicted to narcotics; (d) has not been a mental patient in a mental institution within the last 5 years; (e) is not mentally retarded. "Firearm" does not include an antique firearm; and "ammunition" does not include ammunition designed for use in a signalling or safety device or for use with a stud or rivet driver.)

Fee for an ID card is \$5.00. The card is valid for five years.

Among the exceptions to the requirement of an ID card are (a) law enforcement and military personnel while engaged in their duties; (b) unemancipated minors while under immediate control of parent, guardian or other person in charge of such minor, provided that the parent or guardian has a valid ID card; (c) non-resident hunters during hunting sea-

son with valid hunting license while in an area where hunting is permitted; (d) non-residents attending a showing or display recognized by the Department of Law Enforcement; (e) non-residents whose firearms are unloaded and enclosed in a case, or are currently licensed or registered to possess a firearm in their resident state are also exempted.

Any person who transfers any firearm shall keep a record containing the date, description, serial number (or other information identifying the firearm if no serial number is available) and the recipient's ID card number.

A licensed commercial seller of concealable firearms, within three days of the sale of such firearm to a resident of a municipality requiring registration, shall notify in writing the chief law enforcement officer of the municipality of the name and address of the purchaser, the date of sale, the purchase price and the kind, description and serial number of the firearm.

The Illinois Game Code forbids the possessing or carrying of any firearms or airgun in or on any vehicle unless the gun is taken apart to render it incapable of being fired or is unloaded when enclosed in a case. The mere removing of the bolt from a bolt action firearm is not considered as rendering the gun incapable of being fired.

No person shall sell, give, lend or otherwise transfer any air, spring or pellet gun to any person under 13 years of age, except where the relationship of parent and child, guardian and ward or adult instructor and pupil exists between such person and the person under 13 years of age, or where such person stands "in loco parentis" (in place of a parent) to the person under the age of 13 years.

Although the state law does not provide for a separate permit to purchase a handgun, such permit is required by the Municipal Code of the City of Chicago. Application for a permit to buy a handgun within the Chicago city limits is made to the city police commissioner.

Any person in Chicago purchasing or otherwise acquiring a firearm from a person other than a dealer in Chicago or from any person outside Chicago must register such firearm within 10 days of purchase or acquisition with the city collector. At the time of a firearm sale a Chicago dealer is required to complete a registration form to be sent to the city collector within 48 hours.



## ILLINOIS FIREARMS IDENTIFICATION CARD LAW

The Illinois firearms owners' identification law, enacted in 1967, became effective July 1, 1968.

Principal provisions of this law are as follows:

1. A person must have a firearms owner's identification card to acquire or possess any firearm or ammunition. (A "firearm" is defined as any device designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas. Excepted from the definition is any pneumatic gun, spring gun, or BB gun which expels a single globular projectile not exceeding .18 inch in diameter; any device used exclusively for signalling or safety and required or recommended by the U.S. Coast Guard or the Interstate Commerce Commission, or any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition; an antique firearm which is primarily a collector's item and not likely to be used as a weapon.)

2. Among the exceptions to the requirement of an ID card are (a) law-enforcement and military personnel while engaged in their duties; (b) unemancipated minors while under immediate control of parent, guardian or other person in charge of such minor, provided that parent or guardian has a valid ID card; (c) non-resident hunters during hunting season with valid hunting license while in an area where hunting is permitted; (d) non-residents attending a showing or display recognized by the Department of Law Enforcement; (e) non-residents whose firearms are unloaded and enclosed in a case; (f) non-residents who are currently licensed or registered to possess a firearm in their resident state are also exempted; (g) non-residents while on a firing range recognized by the Department of Law Enforcement.

3. An ID card must be issued by the Department of Law Enforcement to an applicant within 30 days if the applicant (a) is at least 21 years of age, or if under 21, has the written consent of his parent or guardian and has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent, and the parent or guardian has an ID card; (b) has never been convicted of a felony or confined to a penitentiary within the last 5 years; (c) is not addicted to narcotics; (d) has not been a mental patient in a mental

institution within the last 5 years; (e) is not mentally retarded.

4. The fee for an ID card is \$5. The card is valid for five years. Application is made on blank forms prepared and furnished at convenient locations throughout the State.

5. An ID card shall contain the applicant's name, residence, date of birth, sex, physical description, recent photograph and such other personal identifying information as may be required by the Director.

6. Failure to act on an application within 30 days of receipt, or denial of an application, or revocation or seizure of an ID card, may be appealed to the Director of the Department of Law Enforcement for a hearing. All final administrative decisions of the Department under this law shall be subject to judicial review.

7. Any person whose application is rejected or whose ID card is revoked or seized, shall receive written notice stating the specific grounds for denial.

8. The requirement of an ID card is not applicable to the passing or transfer of any firearm or ammunition upon the death of an owner to his heir or legatee, or to the passing or transfer of any firearm or ammunition incident to any legal proceeding or action until 60 days after such passing or transfer.

9. Any person within the State who transfers any firearm shall keep a record containing the date, description, serial number (or other information identifying the firearm if no serial number is available) and the recipient's firearms owner's identification card number.

## CHICAGO FIREARMS REGISTRATION ORDINANCE AND OTHER LOCAL LAWS

1. Every person, who purchases or otherwise acquires, or possesses, any firearm must register it with the City Collector.

2. At the time of purchase from a dealer, the purchaser must complete a registration form which shall contain the date of the sale or gift, the full name, address, age, physical description and occupation of the person to whom the firearm is sold or given, the price of the firearm, the kind, description and serial number or other identifying marks of the firearm, the purpose for which it is purchased and obtained, the permit number, and other relevant information. The completed registration form, signed

by both the seller and the purchaser, must be sent to the Office of the City Collector no later than 48 hours after the sale.

3. Firearms bought or otherwise acquired from any person other than a licensed dealer must be registered with the City Collector within 10 days of acquisition.

4. A registration certificate containing the name, address, age, physical description, and serial number or other identifying marks of the individual firearm to which it applies, shall be issued within 30 days of the registration of a firearm. The certificate must be carried simultaneously with the firearm.

5. Any change in registration, including liquidation or other disposition, must be reported on a form prepared by the City Collector. The new registrant must register in accordance with this law.

6. Within 10 days after the sale or discovery of theft or other disappearance of a registered firearm, the registrant must report the fact of such sale, theft or disappearance both to the Chicago Police Department and the City Collector.

7. The following persons may not register: persons under 18 years of age, narcotic addicts, persons convicted of a felony within 5 years of release from prison or date of conviction, or within 5 years from release from a mental institution or custody of the Illinois Youth Commission, persons mentally retarded, and persons possessing any firearm prohibited by any State or Federal Law.

8. No person ineligible to register may possess any firearm at any time, and such person must deliver to the Police Department within ten days of refusal of registration or revocation of registration by the City Collector any firearm owned or possessed by him.

9. All dealers in firearms must keep a register and an inventory of all firearms sold to individuals.

10. Any person who believes that his registration application has been wrongfully refused may appeal to the Mayor. The action of the Mayor may be appealed to the courts.

11. Penalty for violation is a fine of \$500.

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The Municipal Code of Chicago requires a permit to purchase a handgun within the city limits. Application for such a permit is made to the City Commissioner of Police.

Also, the City Code provides that no person may carry any firearm in any vehicle or about his person except when on

his land or in his home or fixed place of business. Among the exceptions to this provision are:

- (a) Manufacture, transportation or sale of weapons to persons authorized under law to possess such;
- (b) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using their firearms on such target ranges;
- (c) Licensed hunters or fishermen while engaged in hunting or fishing;
- (d) Transportation of weapons broken down in a non-functioning state or not immediately accessible.

Penalty for violation is a fine of \$500.

## INDIANA STATE FIREARMS LAW

A person must have a license to carry, openly or concealed, a handgun in any vehicle or on or about the person, except in his home, on his property or fixed place of business.

Application for a license is made to the chief of police (or corresponding officer) of the municipality in which the applicant resides. If the municipality, has no such officer, or if the applicant does not reside in a municipality, application is made to the county sheriff. If the applicant is a non-resident and has a regular place of business or employment in the State, he shall apply to the sheriff of the county in which he has a regular place of business or employment.

A *qualified or unlimited* license will be issued by the Superintendent of State Police for not more than two years from the date of issue "if it appears that the applicant has a proper reason for the carrying of a handgun and is of good character and reputation and a proper person to be so licensed."

The fee for an unlimited license to carry is five dollars; for a qualified license (target practice and hunting), two dollars.

Among the exceptions to the requirement of a license to carry a handgun are members of "any organization duly authorized to purchase or receive such weapons from the United States or from this state, providing such members are at or are going to and from their place of assembly or target practice." (NRA members are authorized by federal law to purchase firearms from the United States Government and, hence, would come within the foregoing exception. How-

ever, this exception applies only to going to and from target practice at a range or other shooting area.)

A permit is not required for the purchase of a handgun. However, there is a seven-day waiting period between the time of application for the transfer of a handgun and delivery by the seller. The application shall contain certain data on the transferee and the firearm to be transferred. The waiting period does not apply to the holder of a qualified or unlimited license to carry a handgun.

No person, except an individual acting in a parent-child or guardian ward relationship, may transfer a handgun to any person under 18 years of age, or to one who the transferor has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard or of unsound mind. (The Federal Gun Control Act of 1968 prohibits a federal firearms licensee—manufacturer, importer or dealer—from transferring a handgun or handgun ammunition to a person under 21 years of age.)

A retail dealer in handguns must be licensed. Application for a dealer's license is made to the county sheriff.

No dealer may sell a handgun to a person not personally known or to a person who does not present clear evidence of his identity.

Every application for any license shall be granted or rejected within sixty days of application. If an application for renewal of a license is filed within thirty days before its expiration, the existing license is automatically extended until the application is approved or disapproved.

Any person who is denied a license or who has his license revoked may have the decision reviewed by the circuit court.

The requirement of a license to carry or a license to sell at retail does not apply to any firearm not designed to use fixed ammunition or any firearm made on or before 1898.

No license is required to possess, purchase or carry a rifle or shotgun.

A resident of Indiana may purchase rifles and shotguns from Federal firearms licensees (manufacturer, importer or dealer) in contiguous states, provided that the purchaser complies with the requirements for sale in both states and with the provisions of the Federal Gun Control Act of 1968.

## IOWA STATE FIREARMS LAW

A person must have a permit to carry a pistol or revolver concealed on or about his person, or openly or concealed in any vehicle. Exceptions are carrying in a person's home, place of business or on other land possessed by him.

No permit is required for the carrying of one or more "unloaded pistols or revolvers for the purpose of or in connection with lawful target practice, lawful hunting, lawful sale or attempted sale, lawful exhibit or showing, or other lawful use, if such unloaded weapon or weapons are carried either (1) in the trunk compartment of a vehicle or (2) in a closed container which is too large to be effectively concealed on the person or within the clothing of an individual". (The container may be carried in a vehicle or in any other manner.)

Application for a permit is made to the sheriff of the county in which the applicant resides. The sheriff shall issue a permit if, in his judgment, the applicant has a valid reason; and the permit shall be valid throughout the state.

A non-resident may be issued a license, valid throughout the state, by the sheriff of the county in which the non-resident is employed or on duty.

A permit is required to sell handguns at retail. Application for a dealer's license is made to the chief of police or mayor of a city or town, or the sheriff of the county, as the case may be.

No permit or license is required to purchase or possess a rifle, shotgun or handgun.

The law prohibits the sale or other transfer of a handgun to any person under the age of 21 years.

No person may possess or carry any rifle or shotgun in or on any vehicle or any public highway unless such weapon be taken down or contained in a case, and the chamber and magazine thereof be unloaded.

No firearm may be used in any state parks or preserves.

## KANSAS STATE FIREARMS LAW

No person may carry a pistol, revolver or other firearm concealed on the person except on his land, in his home or fixed place of business.

The prohibition against carrying concealed also does not apply to licensed hunters or fishermen while engaged in hunting or fishing.

Unlawful possession of a firearm is



possession of any firearm by an habitual drunkard or narcotics addict, or possession of a firearm with a barrel less than 12 inches long by a person within five years after his release from the penitentiary or within five years after his conviction if there was no imprisonment.

Unlawful disposal of firearms is knowingly selling, giving or transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age; selling, giving or transferring any firearm to any habitual drunkard or narcotics addict; or selling, giving or transferring any firearm with a barrel less than 12 inches long to any person who has been convicted of a felony in any jurisdiction if such transfer is made within five years after his release from the penitentiary or within five years after his conviction if there was no imprisonment.

No permit or license is required to purchase, possess or to carry a handgun (see limitations above), rifle or shotgun.

A resident of Kansas may purchase rifles or shotguns from a federal firearms licensee in an adjoining state, provided that the sale complies with the requirements for sale in both states and the provisions of the Federal Gun Control Act of 1968.

#### KENTUCKY STATE FIREARMS LAW

No person may carry a deadly weapon, other than an ordinary pocket knife concealed on or about the person. (A handgun concealed in a vehicle and readily accessible is considered concealed on or about the person.)

No person may sell a deadly weapon, other than an ordinary pocket knife, to any minor.

No permit or license is required to purchase, possess or carry a handgun, rifle or shotgun.

A resident of Kentucky may purchase rifles or shotguns from a federal firearms licensee in an adjoining state, provided that the sale complies with the requirements for sale in both states and the provisions of the Federal Gun Control Act of 1968.

#### LOUISIANA STATE FIREARMS LAW

The state law prohibits the intentional concealment of any firearm on one's person.

Any rifle having a barrel less than 16 inches in length, and any shotgun having a barrel less than 20 inches in length, and

any other weapon, except a pistol or revolver, capable of being concealed, must be registered with the Department of Public Safety. Permission of this department must be granted before such a firearm can be possessed or transferred. The foregoing requirements do not apply to firearms which are unserviceable and transferred as curiosities or ornaments.

No person may receive, possess, carry, conceal, buy, sell or transport any firearms required to be registered and not so registered.

Every importer, manufacturer and dealer in registerable firearms must register his name and place of business with the Department of Public Safety.

A license is required to sell at retail or wholesale any handgun, rifles (except .22 and .25 caliber) and ammunition therefor. The annual license tax varies according to the gross sales of the business.

No person may sell any firearm to a person under 21 years of age.

No license or permit is required to purchase, possess or carry (openly, carrying concealed is prohibited) a handgun, rifle or shotgun (with exceptions noted above).

Enemy aliens may not possess, own, control or use any firearm.

A resident of Louisiana may purchase rifles or shotguns from a federal firearms licensee in an adjoining state, provided that the sale complies with the requirements for sale in both states and the provisions of the Federal Gun Control Act of 1968.

#### NEW ORLEANS FIREARMS ORDINANCE

No person may sell, lease or give any pistol, toy pistol capable of discharging cartridges, or other dangerous weapon which may be concealed to any person under 18 years of age.

No person may sell, give away, lend, or otherwise dispose of or transfer, nor may any person receive any pistol, revolver, automatic pistol or other concealable firearm except under the following conditions:

1. Recipient of such a firearm shall make written application, in duplicate, with the Superintendent of Police for a permit. Such application shall contain the business and home address, occupation, age, and physical description of the applicant, and make, model and serial number of the handgun, as well as the name of the

person from whom obtained. Fingerprints may also be required.

2. Recipient swears under oath that he has never been charged with or convicted of any felony.

3. The police shall have up to 72 hours to check the statements contained on a permit application before delivery of the firearm can be made. The date and hour of approval shall be written on the application.

4. Transfer of an item for which a permit has been obtained shall be made between the hours of 9:00 A.M. and 5:00 P.M. on the day following the date of approval.

5. No person shall obtain a permit for another person, use another person's permit, or otherwise transfer an article cited above to another without the proper permit.

#### MAINE STATE FIREARMS LAW

The state law requires a license for the carrying of a handgun concealed on or about the person. Application for a license is made to the chief of police or marshal of any city or the select men of any town in which the applicant resides.

A license to carry during working hours may be issued to a non-resident who is employed by a person or firm engaged in the business of transferring money, or engaged in a business of a similar nature, and who is of good moral character and whose application is endorsed by his employer.

No person may sell or give any firearm or ammunition to any minor under 16 years of age. Exceptions are: (1) parents, guardians, teachers or instructors who furnish firearms to such minors for hunting or target shooting outside the thickly settled portions of any city or town; 2) the use of firearms by such minors in a licensed shooting gallery.

A person who sells or gives away an air rifle to a child under 14 years of age is liable to a fine of not more than \$20.

No person who has been convicted of a felony may not possess any concealable firearm, until the expiration of five years from date of discharge or release from prison or termination of probation.

No person, except a law-enforcement officer while on duty, may have in or on any motor vehicle or trailer any loaded rifle or shotgun.

No person, except a law-enforcement officer while on duty or a person possessing a valid license to carry a concealed weapon, may have in or on any

motor vehicle or trailer any loaded handgun.

No license or permit is required to purchase, possess or carry a rifle or shotgun, or to purchase, possess or carry openly a handgun.

## MARYLAND STATE FIREARMS LAW

No person without a permit may wear, carry or transport any handgun, concealed or openly, upon or about his person; and no person may wear, carry or knowingly transport any handgun, concealed or openly, in any vehicle traveling upon any public road, highway, waterway or airway, or upon a road or a parking lot generally used by the public.

*Exceptions to the foregoing prohibition are:*

1. The carrying or transporting of a handgun to or from a place of legal purchase or sale.
2. The carrying or transporting of handgun between bona fide residences of the handgun owner.
3. The carrying or transporting of a handgun between a person's bona fide residence and place of business which is operated and substantially owned by him.
4. The carrying or transporting of a handgun to or from any bona fide repair shop.
5. The wearing, carrying or transporting of a handgun while engaged in, on the way to, or returning from formal or informal target practice, competitive shooting, hunting, trapping, dog obedience training class or show, or any organized military activity. (Informal target practice is not defined.) While traveling to or from any such activity, a person must carry his handgun unloaded and in an enclosed case or enclosed holster.
6. The wearing, carrying or transporting of a handgun within the confines of real estate or business establishment owned or leased by the handgun owner.
7. The wearing, carrying or transporting of a handgun by a supervisory employee within a business establishment in which he is employed while on duty and authorized by the owner or manager of the establishment.
8. The wearing, carrying or transporting of a handgun by law enforcement personnel; members of the armed forces or National Guard while on duty or going to or returning from duty; jailers, guards and wardens; sheriffs' and temporary or

full-time sheriffs' deputies when on active assignment and engaged in law enforcement.

9. The moving of any part or all of a firearms collection from place to place for public or private exhibition.

Application forms for a permit to carry may be obtained from and returned to any Maryland State Police office. The application fee (non-refundable) is \$15 for two years, and the permit shall cover all handguns owned by the applicant. A one-day permit at a reduced cost may be granted.

The Superintendent of State Police shall issue a permit "within a reasonable time" to an applicant who is at least 21 years of age; has not been convicted of a felony or of a misdemeanor for which a sentence of imprisonment of more than one year has been imposed; has not been committed to any detention, training or correctional institution for juveniles longer than one year after an adjudication of delinquency; has not been convicted of any offense involving drugs or narcotics and is not an addict or habitual user of drugs or narcotics or an alcoholic; has not exhibited, upon investigation, a tendency for violence or instability; and has a good and substantial reason (which may include a finding that a permit is necessary "as a reasonable caution against apprehended danger").

Any person whose application for an initial or renewal permit has been denied, revoked or cancelled may appeal to a Handgun Permit Review Board (five members appointed by the Governor) within ten days after receipt of written notice of the Superintendent's action. The Board shall sustain, reverse or modify the decision of the Superintendent or conduct a hearing within 30 days after receipt of the request. If the Board's action results in a rejection of the application, the Board shall submit its reasons in writing to the applicant. Further, any person whose application for a permit has not been acted upon by the Superintendent within 60 days after submission may petition the Board for a hearing by filing a written request for a hearing with the Board.

Included in the handgun control law are provisions for mandatory minimum sentences for second and multiple offenders convicted of unlawfully wearing, carrying or transporting a handgun. Further, the law provides a mandatory penalty of at least five years imprisonment for carrying, wearing or transport-

ing a handgun with the deliberate purpose of injuring or killing another person, or using a firearm in the commission of a felony.

Subject to seizure and forfeiture under the procedures set forth in the law are any handgun, ammunition "or other parts of or appurtenances to any such handgun" worn, carried or transported in violation of the provisions on carrying, wearing or transporting a handgun.

A law enforcement officer is authorized to stop and frisk a person without a warrant, if the officer, "in the light of his observations, information, and experience, has a reasonable belief" that the person may be wearing, carrying or transporting a handgun in violation of the law; by virtue of possession of a handgun, such person may be dangerous to the officer or to others; the obtaining of a warrant under the circumstances is impracticable; and swift action for the protection of the officer and others is necessary to determine whether or not such person is actually wearing, carrying or transporting a handgun.

Restrictions on carrying a handgun do not apply to rifles, shotguns, or antique firearms. An antique firearm means any firearm made in or before 1898, or any replica thereof, if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or uses rimfire or centerfire fixed ammunition no longer manufactured in the United States and not readily available in the ordinary channels of commercial trade.

No minor may carry, either openly or concealed, any deadly or dangerous weapon, other than a handgun, in Cecil, Anne Arundel, Talbot, Harford, Caroline, Prince George's, Montgomery, Washington, Worcester and Kent Counties between one hour after sunset and one hour before sunrise, except while on a bona fide hunting trip, or while engaged in, or on the way to or from, a sport shooting event or any organized civic or military activity.

No dealer may sell or transfer any handgun until seven days shall have elapsed from the time of application for purchase by the prospective purchaser and forwarding of the application by the prospective seller to the Superintendent of State Police. During the seven-day period, the Superintendent, or his designated agent, shall conduct an investigation to determine the truth or falsity of the

information and statements in the application.

Application for the purchase or transfer of a handgun shall contain information fully identifying the applicant, and a statement that the applicant (1) has never been convicted of a crime of violence; (2) is not a fugitive from justice; (3) is not an habitual drunkard; (4) is not an addict or habitual user of narcotics, barbiturates or amphetamines; (5) has never spent more than 30 consecutive days in a medical institution for treatment of a mental disorder, unless there is attached to the application a doctor's certificate, issued within 30 days prior to the date of the application for the purchase or transfer of a handgun, certifying that the applicant is capable of possessing a handgun without undue danger to himself or others; (6) is at least 21 years of age; and (7) has or has not submitted a previous application and, if so, where and when.

If the application contains any false statement or information, or if the application has been improperly completed, the Superintendent must notify the prospective seller in writing within seven days from the date of application was mailed of his disapproval of the application. The Superintendent must also notify the prospective purchaser.

No dealer may sell or transfer a handgun to an applicant whose application has been disapproved, unless the disapproval has been subsequently withdrawn by the licensing authority or overruled by court action.

If an application has been disapproved by the Superintendent, the applicant may request, within 30 days after the written notice of disapproval, a hearing before the Superintendent who must grant the hearing within 15 days of the request. Continued denial of the application may be appealed to the courts within 30 days of final action by the State Police.

All dealers in handguns must be licensed by the state in addition to having any other licenses that may be required by law. Application for a dealer's license is made to the Superintendent of State Police. The applicant must complete a statement containing the same information required of the applicant for the purchase or transfer of a handgun. The provisions for an appeal of the denial of the application are the same as are available to an applicant for the purchase of a handgun.

The initial fee for a handgun dealer's license is \$25; renewal fee is \$5. A license is not transferable.

A dealer who sells or transfers a handgun must forward a written notification of the transaction to the Superintendent within seven days of delivery of the handgun. The Superintendent must maintain a permanent record of all completed sales and transfers of handguns.

All previous restrictions imposed by any local (county or city) law or regulation within the state on the possession, carrying, wearing, transporting or transfer by private persons of handguns are preempted by the state law.

A resident of Maryland who is not a dealer may transfer, sell, or deliver a firearm to a non-dealer who is also a resident of Maryland so long as the purchaser is not prohibited by state or federal law (see below). The waiting period does not apply to a transaction between non-dealers. If the sale is to a non-resident of Maryland, then the transaction must comply with federal law and be conducted through a federally licensed dealer in the state of the purchaser.

No person may sell or transfer a handgun to a person whom the seller or transferor knows, or has reasonable cause to believe, has been convicted of a crime of violence or of a violation of any of the provisions of the state handgun law, or is a fugitive from justice, or is an habitual drunkard, or is addicted to or an habitual user of narcotics, barbiturates or amphetamines, or is of unsound mind, or to any person visibly under the influence of alcohol or drugs, or to any person under 18 years of age (21 in the case of sale or transfer by a dealer because of the Federal Gun Control Act of 1968).

No person may sell or otherwise transfer any firearm or ammunition therefore, to a minor under 18 years of age without the express permission of the parent or guardian of such minor. However, a minor under 18 may use firearms under the guidance of any adult or qualified supervisor or instructor of a recognized organization engaged in the instruction of marksmanship.

The requirements and restrictions pertaining to the sale or transfer of handguns do not apply to antique or unserviceable firearms sold or transferred and/or held as curios or museum pieces.

A resident of Maryland may purchase a rifle or shotgun from a federal firearms licensee in an adjoining state, provided that he complies with the requirements for sale in both states.

## MASSACHUSETTS STATE FIREARMS LAW

A person must have a permit to purchase a pistol or revolver, or a license for the carrying of a handgun either openly or concealed.

The possession of a license to carry eliminates the necessity of a permit to purchase, the latter being designed for a person who wishes to buy a handgun for the protection of his home or property only.

Application for a permit to purchase or a license to carry a handgun is made to the police chief of a city or town, or to the Commissioner of Public Safety. A person must be 21 years of age or over to obtain a purchase permit. A minor 18 or over, with the written consent of his parent or guardian, may receive a license to carry.

A license to carry may be issued if it appears that the applicant "is a suitable person to be so licensed, and that he has good reason to fear injury to his person or property, or for any other proper purpose, including the carrying of firearms for use in target practice only". Such license is revocable for cause at the will of the issuing authority. The license fee is ten dollars.

A permit to purchase shall be valid for not more than ten days after issue. A license to carry is valid for five years and expires on the anniversary of the applicant's date of birth occurring not less than four but not more than five years from date of issue.

A person denied a license to carry may appeal such denial by filing within ten days of the refusal a petition for review of the decision in the district court having jurisdiction in the city or town in which the applicant filed for the license.

A non-resident may carry a handgun in or through Massachusetts in order to participate in shooting competition or to attend a meeting or exhibition of any organized gun-collector group, or in order to hunt, provided that such non-resident is a resident of the United States and has a license or permit to carry a handgun issued by a state, district or territory which has licensing requirements which prohibit the issuance of a license to persons convicted of a felony, or of the unlawful use, possession or sale of narcotics or harmful drugs; and provided, further, that in the case of a person traveling in or through Massachusetts for the purpose of hunting, he has on his person a hunting or sporting license issued by Massachusetts.

or the state of destination.

A temporary license to carry a handgun may be issued by the Commissioner of Public Safety to a non-resident who is not an alien and who has not been convicted of a felony or of the unlawful use, possession or sale of narcotic drugs. Such license is valid for a period of one month.

The Commissioner of Public Safety may grant a permit to purchase a handgun (revocable at will) to a holder of a temporary license to carry a concealable firearm.

No handgun may be sold to a minor, except to a minor 18 years old or over who has a license to carry and the notarized consent of his parent or guardian.

Massachusetts law also provides that a person must have an identification card in order to acquire, possess or own a rifle or shotgun. Application for an ID card is made to the local police. The card is valid for five years and costs \$2.

An applicant shall be entitled to receive an ID card unless he (1) has been convicted of a felony within the preceding five years; (2) has been confined to any hospital or institution for mental illness (an affidavit from a doctor attesting to the applicant's ability to possess a firearm will eliminate this disqualification); (3) has been convicted of a violation of any federal or state narcotic or harmful drug law, or is under treatment or confinement for drug addiction or habitual drunkenness; (4) is under the age of 15, or is 15 years of age or over but under the age of 18 and submits with his application a certificate of his parent or guardian granting the applicant permission to apply for a card. (A person under the age of 15 may use a rifle or shotgun in hunting or target shooting provided that such use is otherwise permitted by law and is under the immediate supervision of a person holding a firearm identification card, or a duly commissioned officer of the U.S. Armed Forces.)

Among the exceptions to the ID-card requirement are: (1) non-resident hunters with valid non-resident hunting licenses during hunting season; (2) non-residents while on a shooting range; (3) non-residents traveling in or through the state, provided that rifles or shotguns are unloaded and cased; (4) non-residents while at a firearms show or display organized by a regularly existing gun collector's club or association; (5) new residents moving into the state, or residents of the state upon being released from

active military service, for 60 days after the time he moves into the state or after release from service; (6) persons under the age of 15 hunting or target shooting as permitted by law and under the immediate supervision of a person having an ID card or a license to carry, or officer or enlisted member of the Armed Forces while in performance of duty; (7) transfers of rifles or shotguns to heirs or legatees, provided that heirs or legatees obtain an ID card within 180 days of transfer if heirs or legatees are not exempt from the ID-card requirement; (8) non-residents with a current permit or license from the state in which they reside; (9) non-residents from a contiguous state when acquiring rifles or shotguns in Massachusetts, provided that the firearms are removed from the state within 14 days; (10) veterans organizations chartered by Congress or recognized in state law; (11) historical societies, museums and institutional collections open to the public, provided the rifles or shotguns are unloaded, properly housed and secured from unauthorized handling.

A person denied an ID card, or whose card has been suspended or revoked, may appeal to the district court for review of such action within 90 days of notice of denial, suspension or revocation.

Other provisions of the law are as follows: (1) a license, obtained from the local police at a fee of \$1, is required to sell ammunition; (2) a person may sell a maximum of four firearms in a calendar year without a dealer's license, provided such sales are reported to the state and local police; (3) any acquisition of a firearm from other than a licensed dealer must be reported within seven days of receipt to the Commissioner of Public Safety; (4) no ID card is required for the purchase of a rifle or shotgun in the case of a person who has a license to carry a handgun; (5) no manufacturer of firearms shall sell any firearm without a serial number in Massachusetts after April 1, 1969; (6) firearms made in or before 1898 or replicas of firearms not using fixed ammunition are excluded from the provisions of the law.

The transportation of loaded firearms in a motor vehicle or motor boat is prohibited.

An alien may not purchase or possess any handgun, and such person must have an identification card in order to acquire, possess or carry a rifle or shotgun.

No minor under 18 years of age may

purchase an air rifle or BB gun.

A license is required to engage in the business of a gunsmith or firearms dealer. Application for such license is made to the head of the police in a city or town.

A resident of Massachusetts may purchase a rifle or shotgun from a federally licensed dealer in an adjoining state, provided that he complies with the requirements for sale in both states and the purchaser and licensee comply with the notification and waiting-period requirement of the Federal Gun Control Act of 1968.

## MICHIGAN STATE FIREARMS LAW

A license is necessary for the purchase of a handgun. Application for such license is made to the police chief of a city or incorporated village, or the sheriff of a county, as the case may be. A purchase license is valid for only ten days from date of issue.

A person who obtains a handgun by purchase, gift or other manner must present the firearm to the police chief or county sheriff for safety inspection and certification thereof. At this time, a complete description of the handgun and the owner is entered upon the inspection forms.

The requirement of a license to purchase and requirement of inspection does not apply to "wholesale or retail dealers in firearms or to collections of pistols kept solely for the purpose of display, as relics, curios or antiques, not made for modern ammunition or permanently deactivated".

A separate license is required to carry a handgun concealed on the person or concealed or openly in any vehicle. Application for this license is made to the concealed weapon licensing board of the county in which the applicant resides. This board issues two types of licenses—a restricted license, such as for hunting and target practice, or a general license, valid for the carrying of a handgun any place and any time.

Among the exceptions to the requirement of a license to purchase and the requirement of safety inspection are: (1) members of organizations authorized to purchase or receive firearms from the United States or the State of Michigan for firearms used by such members for the purposes of such organizations; (2) holders of a concealed weapon license from another state



Among the exceptions to the requirement of a license to carry are: (1) a person carrying a handgun unloaded in a wrapper or container in the trunk of his vehicle or while carrying a handgun unloaded and in a wrapper from place of purchase to home or place of business, or to a place of repair or back to his home or place of business, or while moving goods from one place of abode or business to another place of abode or business; (2) a holder of a concealed weapon license from another state.

An applicant for a purchase or carrying license must be 18 years of age or over, a citizen of the United States and a resident of the state for at least six months.

No license is required for the purchase, possession or carrying of a rifle or shotgun. However, a person under 18 years of age may not purchase a rifle or shotgun.

No person under 18 years of age may use or possess any handgun for propelling BB's not exceeding .177 caliber by means of spring, gas or air, outside of his domicile, unless he is accompanied by a person over 18 years old.

CO<sub>2</sub> pellet guns are subject to the same licensing and inspection requirements as pertain to concealable firearms.

The possession, transportation, sale or use of blank cartridge pistols is prohibited, except for theatrical, dog-training or signalling purposes.

According to an opinion of the Attorney General, the carrying of a gas-ejecting pen for personal protection is prohibited.

Rifles and shotguns must be unloaded in both chamber and magazine when in or upon any automobile, aircraft, boat or other vehicle propelled by mechanical means.

Firearms must be enclosed and securely fastened in a case, or locked in the trunk, while being transported by automobile.

A resident of Michigan may purchase rifles and shotguns from Federal firearms licensees (manufacturers, importers and dealers) in contiguous states, provided that he complies with the requirements for sale in both states and the purchaser's state of residence permits such sale or delivery.

#### MINNESOTA STATE FIREARMS LAW

The state firearms law does not require a permit to purchase or to possess any firearm.

No license is required for the carrying of a handgun. The law prohibits the possessing or carrying of a firearm, concealed or openly, with the intent to use it against another.

No person may possess out of doors, except upon a range operated under a permit from a game warden, and unless unloaded and cased, or unloaded and broken down, any rifle (except a .22 caliber rimfire rifle), or shotgun with slugs, in any territory where there is an open deer season with firearms, for a period of ten days before and five days after such season. Also, no person may possess any rifle in an area open for the taking of deer with shotguns and slugs but not rifles.

No person may transport any firearms except a pistol or revolver in a motor vehicle, unless such firearm is unloaded in both chamber and magazine and contained in a gun case, or unless unloaded and contained in the trunk of the car with the trunk door closed.

Any firearm in possession of an alien for any purpose, other than hunting as a non-resident, is contraband and subject to confiscation.

No minor under the age of 16 years shall handle, or have in his possession or under his control, any firearm or air gun for any purpose, except while accompanied by a parent or guardian. Any person between 14 and 16 who has a firearms safety training certificate is exempted from the foregoing. An additional exception is a person using a firearm on land occupied as a place of abode by himself, parent or guardian.

Any person participating in a firearms safety course may carry a properly encased firearm, unloaded, to and from such course. Also, any person shall be allowed participation in organized shooting programs under qualified adult supervision.

No person in any municipality of the state may sell, loan or give any firearm, air gun or ammunition to any minor under 18 years of age without the written consent of a parent or guardian, or of a police officer or magistrate of such city.

A resident of Minnesota may purchase rifles or shotguns from federal firearms licensees (manufacturer, importer or dealer) in adjoining states, provided that the sale complies with the requirements for sale in both states and with the requirements of the Federal Gun Control Act of 1968.

#### MISSISSIPPI STATE FIREARMS LAW

The state law prohibits any person from carrying a handgun concealed on or about his person. Exceptions are watchmen, guards and others while on duty and who have obtained a permit from the county sheriff or the Secretary of State, as the case may be.

No person may sell, give or loan to a minor or intoxicated person any concealable weapon or handgun cartridges.

Any father who knowingly permits his son under the age of 16 years to own or possess, or to carry concealed, any handgun or bowie-knife, dirk-knife or similar weapon, is guilty of a misdemeanor.

All firearms having a muzzle velocity of more than 2,000 feet per second must be registered with the county sheriff. The foregoing does not apply to bona fide firearms dealers, firearms manufactured prior to 1900 or to firearms made after 1900 and incapable of being discharged and kept as a relic or historical specimen.

No permit or license is required to purchase or carry openly a handgun, rifle or shotgun.

#### MISSOURI STATE FIREARMS LAW

A person must have a permit in order to purchase, sell, borrow, loan, give away, trade, barter, deliver or receive a pistol or revolver.

Application for a permit is made to the sheriff of the county in which the applicant resides. The permit shall be issued by the sheriff if he is satisfied that the person applying for the same is of good moral character and of lawful age, and that the granting of the permit will not endanger the public safety. The fee for a permit is fifty cents.

The permit is invalid thirty days after the date of issue. If the permit is used, it must be returned to the sheriff within thirty days after expiration and must contain the name and address of the person from whom a handgun is to be acquired, the nature of the transaction and a full description of the firearm.

No permit is necessary for the possession or open carrying of a pistol or revolver. However, no person may carry a firearm concealed on the person or openly or concealed in specified places (election areas, churches, schools, etc.).

No person may sell, deliver, loan, or otherwise transfer any concealable



firearm to any minor without parental consent.

Visitors may travel through the state with a firearm without a Missouri permit if the visitor abides by all other state laws.

No permit is required for the possession, purchase or carrying of a rifle or shotgun.

Firearms dealers are not required to be licensed under state law.

A resident of Missouri may purchase rifles and shotguns from federal firearms licenses in contiguous states, provided the purchaser complies with the requirements for sale in both states and the purchaser's state of residence permits such sale or delivery.

No permit is required for an antique handgun or replica. "Antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

No wholesale or retail dealer shall sell any handgun which does not have the trademark or name of the maker, the model and the factory serial number; and no person may purchase or acquire any such firearm from any source within or outside the state.

## MONTANA STATE FIREARMS LAW

The state law requires a permit to carry a handgun concealed upon the person. Among the exceptions to this requirement is the carrying of a handgun on one's premises or at his home or place of business.

A concealed handgun means any pistol or revolver wholly or partially covered by the clothing or wearing apparel of the person carrying or bearing the firearm.

Application for a permit is made to the clerk of the district court at no charge. A creditable witness to the character of the applicant must be produced if the applicant is unknown to the judge. Only citizens of the United States and residents of the state for more than six months may

apply. The permit is valid for a period not to exceed one year.

No child under the age of 14 years may carry or use in public any type of firearm except when the child is in the company of a parent or guardian or under the supervision of a qualified firearms safety instructor duly authorized by such parent or guardian.

No license or permit is required to purchase or possess a handgun, or to purchase, possess, carry or transport a rifle or shotgun.

A resident of Montana may purchase rifles or shotguns from a federal firearms licensee in an adjoining state, provided that the sale complies with the requirements for sale in both states and the provisions of the Federal Gun Control Act of 1968.

## NEBRASKA STATE FIREARMS LAW

The state law prohibits the carrying of a firearm concealed on or about the person.

No person under 18 years of age may possess a pistol. This does not apply to the temporary loan of pistols to those undergoing a course, drill or instruction in marksmanship under the immediate supervision of a parent, guardian or adult instructor, or to the issue of pistols to members of the active or reserve forces when on duty or in training.

No person may receive, possess, sell or lease (other than by delivery to law-enforcement officials) any handgun from which the manufacturer's identification mark or serial number has been removed.

No person who has been convicted of a felony in any jurisdiction in the United States, or who is a fugitive from justice, may possess any firearm with a barrel less than 12 inches in length.

The transportation of a loaded shotgun in a motor vehicle is prohibited.

No permit or license is required to purchase, possess or carry a handgun, rifle or shotgun.

## NEVADA STATE FIREARMS LAW

The state law forbids a person from carrying any handgun or other deadly weapon concealed upon the person or in a vehicle unless, upon written application, he is granted permission by the county sheriff.

No minor under the age of 14 years shall handle or have in his possession or control any firearm of any type for any

purpose except while accompanied by or under the immediate charge of an adult person.

No person may sell or barter a handgun or other concealable firearm to a person under 18 years of age.

Aliens and persons convicted of a felony in any court are not permitted to own, possess or control any firearm capable of being concealed on the person.

## NEW JERSEY STATE FIREARMS LAW

A person must have a permit to purchase a handgun or an identification card to purchase a rifle, shotgun or air gun. Application is made to the police chief of the municipality in which the applicant resides or to the Superintendent of State Police. "No person of good moral character and who is of good repute in a community in which he lives . . . shall be denied a permit to purchase a pistol or revolver or a firearms purchaser identification card."

No purchase permit or firearms identification card will be issued to (1) any person under the age of 18; (2) any person who suffers from any physical defect or sickness which would make it unsafe for him to handle firearms; (3) any person who has ever been confined for a mental disorder to a hospital, mental institution or sanitarium, unless he produces a certificate from a medical doctor or psychiatrist licensed in New Jersey that he is no longer suffering from any mental disorder which would interfere with or handicap him in the handling of a firearm; (4) any person who has been convicted of any crime; (5) any alcoholic, drug addict or person addicted to narcotics, goof balls or pep pills; (6) any person who is a member of any organization listed as subversive by the Attorney General of the United States; (7) any person where the issuance to him of a permit would not be in the interest of the public health, safety or welfare.

An application for a purchase permit or firearms identification card must contain fingerprints of the applicant. The fingerprints will be checked with the records of the State Bureau of Identification and Federal Bureau of Investigation. The fee for the purchase permit or identification card is \$2.

A purchase permit is valid for a period of 90 days from the date of issuance and may be renewed by the issuing authority for good cause for an additional 90 days.

(A separate permit is required for the p n card shall be valid until such time as the holder becomes subject to any of the disabilities listed in the second paragraph, above.

A person must have a license to carry a concealable firearm openly or concealed in a vehicle or on or about the person. Application for a license is made, in the first instance, to the police chief of the city or sheriff of the county in which the applicant resides. Upon approval by this official, the applicant submits his application to the judge of the county court of the county of applicant's residence. No license shall be issued to any person who suffers from any disability which would preclude his obtaining a permit to purchase a pistol or revolver. In addition, he must produce proof of his familiarity with the handling and use of firearms and of the need therefor. The application will contain the fingerprints of the applicant which will be checked by the State Bureau of Identification and Federal Bureau of Investigation. The fee for this permit is \$3. (See below for exceptions to license requirement.)

Also, a person must have an identification card to carry a rifle or shotgun in a vehicle or on or about his person. (See below for exceptions to ID-card requirement.)

Any person aggrieved by the denial by the chief of police or State Police Superintendent of approval of an application for a permit to purchase, an identification card or a license to carry a handgun may request a hearing in the county court of the county in which he resides (or in the county court of the county in which the application is made if he is a non-resident). The request for a hearing shall be made in writing within 30 days of the denial. The applicant shall serve a copy of his request for hearing upon the issuing authority. Further appeals from the results of such hearing shall be in accordance with law.

The following persons, among others, who carry an unloaded and cased handgun or an unloaded and cased rifle or shotgun are excepted from the requirement of a license to carry or an identification card: (1) licensed hunters in going to or from places of hunting; (2) persons traveling directly to and from a target range or other authorized shooting place; (3) members of Federal Government-enrolled civilian rifle or pistol clubs in going to or from their several places of target practice and carrying weapons necessary for such practice, provided

that a copy of the charter is filed with the Superintendent and a list of the members of the club is submitted annually to the Superintendent.

A license is required to sell handguns at retail. Application for a retail dealer's license is made to the judge of the county court of the county in which the retail dealer has his business. The initial license cost is \$10; annual renewal fee is \$5.

No one under 18 may purchase or otherwise acquire any firearm, or carry or use any firearm, except in the presence or under the direct supervision of his parent or other responsible adult possessing a handgun license or firearms identification card, or except for military drill under a recognized military organization or for marksmanship practice on an authorized range. A person under 18 who has successfully completed a hunter safety course, taught by a qualified instructor or conservation officer, who carries in his possession a certificate indicating the successful completion of such a course and who has a valid hunting license in his own name, may carry and use a rifle or shotgun (in accordance with the game law) for the purpose of hunting during the regular hunting season.

No person may sell, lend, lease or give a firearm to any person under 18 years of age. However, such minor may borrow a firearm for the purposes indicated immediately above, provided that he furnishes the lender with the written consent of his parent or guardian.

No alien may possess a rifle or shotgun. This prohibition does not apply to any alien owning real estate in New Jersey, valued at \$2,000 above all encumbrances.

No person shall manufacture or sell at wholesale any firearm until he has registered with the Superintendent of State Police. Initial registration is \$50; annual renewal, \$25.

The permit and licensing provisions do not apply to antique firearms which are incapable of being fired or which do not fire fixed ammunition, or those manufactured before 1898 for which cartridge ammunition is not commercially available, and are possessed as curiosities or ornaments, or for their historical significance or value. (The State Attorney General ruled in 1973 that this exception does not apply to replicas of antique firearms.)

## NEW MEXICO STATE FIREARMS LAW

No person may carry a concealed loaded firearm "or any other type of deadly weapon anywhere" except in the following instances: (1) in a person's home or on his property; (2) in a private vehicle for lawful protection of person or property while traveling; (3) by a peace officer in the discharge of his duties.

Under the law, the carrying of a "deadly weapon" means carrying it on the person, or in proximity thereto, so that the weapon is readily accessible for use.

The foregoing prohibition does not prevent the carrying of an unloaded firearm.

No person may knowingly transport or take any explosive other than small-arms ammunition upon or into any vehicle belonging to a common carrier transporting passengers.

No person may carry, transport or possess firearms of any kind in or upon any game refuge. Exceptions are (1) federal, state or local officers in the discharge of their duties; (2) persons crossing refuges over public roads and trails with firearms unloaded or taken down; (3) stockmen, trappers, ranchers and property owners, with permits from the State Game Warden, while engaged in their legitimate affairs on or within refuges.

No permit or license is required for the possession, purchase, carrying, sale or transfer of any handgun, rifle or shotgun.

A resident of New Mexico may purchase a rifle or shotgun from a federal firearms licensee in an adjoining state, provided that he complies with the requirements for sale in both states and the purchaser's state of residence permits such sale or delivery.

## NEW HAMPSHIRE STATE FIREARMS LAW

The state firearms law defines a handgun (pistol or revolver) as "any firearm with a barrel less than sixteen inches in length". Antique weapons incapable of using rimfire or centerfire cartridges do not come within this definition.

No person without a license may carry a loaded handgun in any vehicle or concealed upon his person, except in his dwelling house or place of business. Among the exceptions to this requirement are the following: organizations by law authorized to purchase or receive such weapons from the United States or from the state; duly authorized military

and civil organizations when parading, or the members thereof when at, or going to or from their customary places of assembly.

Application for a license to carry is made to the selectmen of a town or the mayor or chief of police of a city in which the applicant resides. A non-resident applies to the superintendent of state police.

A license will be issued "if it appears that the applicant has good reason to fear injury to his person or property or has any proper purpose and that he is a suitable person to be licensed". Target shooting or hunting is a "proper purpose".

An alien or a convicted felon must obtain a permit from the local licensing authorities to purchase a pistol or revolver.

No person may sell or otherwise transfer any handgun to any minor. This does not apply to the parents or guardians of such a minor.

Air rifles may be possessed by a person under eighteen only in his own home under parental supervision or on the way to or from an approved range that is under the supervision of a responsible adult such as an instructor in safety or marksmanship.

A license is required to self handguns at retail. Application for a license is made to the selectmen of the town or mayor or police chief of the city in which the applicant resides.

A resident of New Hampshire may purchase a rifle or shotgun in a contiguous state if he is in compliance with the Federal Gun Control Act of 1968 and the laws pertaining to the sale of firearms in both states.

A person may not have a loaded gun in a motor vehicle, boat, snowmobile or aircraft or hunt from such a craft propelled by motor power.

If neither party to a transaction has a dealer's license, no person shall sell a handgun to any person not personally known to him.

No license or permit is required to purchase, possess, or carry a rifle or shotgun.

The user of a handgun in a crime or attempted crime will be subject to a mandatory, nonconcurrent two to five years imprisonment without eligibility of parole for the first offense, in addition to the crime itself, and a ten to twenty year sentence for the second offense.

## NEW YORK STATE FIREARMS LAW

### *Possession, carrying and purchase*

The State Penal Law requires that a person must have a license either to possess or to carry (openly or concealed—for any purpose) a pistol or revolver. A license to possess authorizes a person to keep a handgun in his home or place of business from which the firearm may not be removed. A license to carry authorizes a person to carry a handgun on or about the person. (Relatively few licenses are issued for general carrying, that is, for both protection and sporting purposes. The vast number of licenses to carry are limited to target shooting, or to both target shooting and hunting.)

No license is transferable to any other person or premises under any circumstances.

A person must have either a license to possess or a license to carry in order to purchase a pistol or revolver. The purchase authorization is in the form of a coupon, part of which is removed and retained by any person who sells the licensee a concealable firearm. (The purchase coupon is separate and distinct from a license to carry and is equivalent to a purchase permit. Each purchase must be covered by a coupon.)

A resident of New York City applies to the city police commissioner for a license; a resident of Nassau County, to the county police commissioner; a resident of Suffolk County, to the county sheriff or county police commissioner, depending upon the location of residence in the county. Elsewhere in the state, a person applies to a judge of a court of record of the county in which the applicant resides.

The police of New York City also issue a special target shooter's license. Application for this license is made to the police commissioner through the local precinct. Among the requirements for this license is the submission of an affidavit stating that the applicant is proficient in the handling of a handgun, and when, where and by whom his proficiency was attained. A renewal of the license requires an affidavit setting forth the applicant's experience with a handgun during the previous year.

A license issued in New York City is good throughout the state, but a license issued outside the city is not valid within the city, unless a special permit validating the out-of-city license is granted by the police commissioner.

License fees are: (1) license to possess or to carry in New York City—\$30 initial, \$12 renewal; (2) license to possess or carry in Nassau County—\$20 initial, \$10 renewal; (3) license to possess or to carry elsewhere in the state—not less than \$3 nor more than \$5.

In New York City and Nassau County and Suffolk County, a license to possess or carry a handgun shall expire on the first day of the second January after the date of issuance. Elsewhere in the State, a license shall be valid until revoked or cancelled.

An amendment to a license, to cover additional handguns, may be obtained by applying to the license-issuing authority who issued the original license.

Notification of any change of residence of a license holder outside of New York City or Nassau and Suffolk Counties shall be made to the Executive Department, Division of State Police, Albany. A licensee in New York City or Nassau County shall notify the city or county police commissioner.

The holder of a New York license issued outside of New York City may transport handguns through the city, provided that (1) the firearms covered by the license are in a locked container; (2) the trip through the city is continuous and uninterrupted.

An out-of-state license or permit is not honored in New York State.

No permit or license is necessary to possess, purchase or carry a rifle or shotgun in New York State (see below).

No rifle or shotgun may be carried or possessed in any automobile unless such firearm is unloaded in both chamber and magazine. Also, a New York City ordinance prohibits within the city limits the possession or carrying of a loaded rifle or shotgun in public or the carrying of a rifle or shotgun unless it is completely enclosed or contained in a nontransparent carrying case.

New York State law requires that a person must be at least 16 years of age to purchase or possess a firearm, air gun or blank-cartridge gun of any description. However, a person under 16 but not under 12 years old, who is a member of a club, team or society organized for educational purposes, may possess and fire a rifle of not larger than .22 caliber rim fire (or an air gun) at the club's range while under the supervision and guidance of an adult citizen certified as a small arms instructor.

An alien may possess and use a rifle or shotgun only while hunting, fishing or

trapping in accordance with the license and other requirements of the State Conservation law.

*Antique as well as modern handguns come within the license requirements of the law. There are no exceptions for antique pistols and revolvers. There is a license for possessing, collecting and carrying antique handguns.*

Air and CO<sub>2</sub> powered handguns do not come within the licensing requirements of the law. However, their sale is forbidden in New York City.

The possession of tear-gas guns and similar devices is prohibited.

No person may sell any ammunition designed exclusively for use in a handgun to another who does not have a handgun license.

Possession of a rifle or shotgun by a person convicted of a felony or any of the offenses under Section 552 (e.g., illegal possession or use of weapons, possession of burglar's tools, buying or receiving stolen property, unlawful entry, aiding escape from prison), Code of Criminal Procedures, is prohibited.

A person must have written authorization from the school authorities in order to possess a firearm in or upon a building or grounds of any educational institution.

A person who comes into possession of a handgun as an executor or administrator of an estate, or as an heir or other lawful possessor of property of a deceased person, may hold such handgun for a period of 15 days. If the firearm is not lawfully disposed of within that time, he shall deliver it to the local police or the Superintendent of State Police. The local or state police shall hold the firearm and deliver it upon written request of the executor, administrator or other lawful possessor to a named person licensed to possess the firearm. If no request is received by the police within two years of delivery to the police, the police shall dispose of it according to law.

New York City requires a permit to purchase or possess any rifle or shotgun. No license will be issued to a person under 18 or where the issuance would not be in the interest of public health, safety or welfare. The fee for such a permit is \$3, renewable every three years. In addition, a certificate of registration, at no cost, must be obtained in order to possess any rifle or shotgun.

In New York City, a person must produce a rifle and shotgun permit and certificate of registration in order to purchase any rifle or shotgun ammunition. Ammunition will be sold only for the

particular firearm cited on the registration card.

No person under 18 years of age may carry, fire or use any rifle or shotgun in New York City unless he is in the actual presence or under the supervision of a person who holds a rifle and shotgun permit.

A resident of New York State may purchase rifles or shotguns from a federal firearms licensee in an adjoining state, provided that the sale complies with the requirements for sale in both states and the provisions of the Federal Gun Control Act of 1968.

#### *Gunsmith, dealer and manufacturer*

The Penal Law of New York State requires that a person must obtain a license to engage in the business of a gunsmith or firearms dealer. Application for a license to conduct such business in New York City is made to the city police commissioner; in Nassau County, to the county police commissioner; in Suffolk County, to a county judge. Elsewhere in the state, application is made to a judge or justice of a court of record of the county in which the business is to be located.

Annual license fees are as follows: New York City and Nassau County—\$25 for a gunsmith and \$50 for a firearms dealer; elsewhere in the State—\$4. All licenses expire on the first day of the second January after issuance.

A "gunsmith" is defined as any person, firm, partnership, corporation or company engaged in the business of repairing, altering, assembling, manufacturing, cleaning, polishing, engraving or trueing, or performing any mechanical operation on, any firearm or machine gun.

A "dealer in firearms" is defined as any person, firm, partnership, corporation or company engaged in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of any pistol or revolver. This definition does not include a wholesale dealer.

A gunsmith's or dealer's license is valid only for the premises for which it is issued.

A licensed gunsmith or dealer must keep a record of every transaction involving a concealable firearm. This record shall contain the date, name, age, occupation and residence of any person from whom a firearm was received or to whom a firearm was delivered, and the caliber, make, model, manufacturer's name and

serial number, or other distinguishing identification marks if there is no serial number. The record books shall be maintained on the business premises and shall be open at all reasonable hours for inspection by any peace officer.

In the event of cancellation or revocation of a gunsmith's or dealer's license, or discontinuance of business by a licensee, the record book shall be immediately surrendered to the licensing officer in the City of New York and Counties of Nassau and Suffolk, and elsewhere in the State to the Executive Department, Division of State Police.

By local law, New York City and Suffolk County require a manufacturer of handguns to obtain a license. This law establishes minimum quality standards for handguns, recordkeeping requirements and control over the manufacturer of handgun parts.

#### GUNSMITH'S OR DEALER'S LICENSE

The Penal Code of New York State requires that a person must obtain a license to engage in the business of a gunsmith or firearms dealer. Application for a license to conduct such business in New York City is made to the city police commissioner; in Nassau County, to the county police commissioner; in Suffolk County, to a county judge. Elsewhere in the state, application is made to a judge or justice of a court of record of the county in which the business is to be located.

Annual license fees are as follows: New York City—\$25 for a gunsmith and \$50 for a firearms dealer; elsewhere in the State—\$4. All licenses expire on the first day of the second January after issuance.

A "gunsmith" is defined as any person, firm, partnership, corporation or company engaged in the business of repairing, altering, assembling, cleaning, polishing, engraving or trueing, or performing any mechanical operation on, any pistol or revolver.

A "dealer in firearms" is defined as any person, firm, partnership, corporation or company engaged in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of any pistol or revolver. This definition does not include a wholesale dealer.

A gunsmith's or dealer's license is valid only for the premises for which it is issued.

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keep a record of every transaction involving a concealable firearm. This record shall contain the date, name, age, occupation and residence of any person from whom a firearm was received or to whom a firearm was delivered, and the caliber, make, model, manufacturer's name and serial number, or other distinguishing identification marks if there is no serial number. The record books shall be maintained on the business premises and shall be open at all reasonable hours for inspection by any peace officer.

In the event of cancellation or revocation of a gunsmith's or dealer's license, or discontinuance of business by a licensee, the record book shall be immediately surrendered to the licensing officer in the City of New York and County of Nassau, and elsewhere in the State to the Executive Department, Division of State Police.

#### PURCHASE AND POSSESSION OF POWDER

The explosive law enacted by the 1970 State Legislature centralizes the licensing and regulation of the ownership, possession, use and transportation of explosives in the State Department of Labor and gives the Industrial Commissioner, head of the department, the right to investigate and verify the facts on an application for a license.

No license is required to purchase smokeless powder for handloading small-arms ammunition.

The purchase of *any quantity of black powder* requires an explosives license at a fee of \$10.

Persons under 18 years of age are not eligible for an explosives license and may not purchase or receive any explosives whether for themselves or for any other person.

An explosives license issued by the State Department of Labor is not valid in New York City. Further, a person may not bring in, store, acquire or use any explosives, including smokeless powder, in New York City without permission of the City Fire Department.

If the applicant for an explosives license has a valid license for a pistol or revolver, the Industrial Commissioner will waive the requirement for fingerprinting of the applicant.

A license may be issued in the name of an individual person only. If an application is being filed for an organization (for example, a gun club) it must designate the individual owner, a partner or a corporate officer as applicant and furnish the

required personal data for that person. Moreover, if any person other than the applicant is to make the actual purchase or to pick up the black powder, that person must have a separate license in his own name.

For all new or renewal license applications, the State Labor Department will obtain information on the applicant's eligibility from the State Identification and Intelligence System and the Department of Mental Hygiene through direct inquiry by the Labor Department.

#### NEW YORK CITY ORDINANCE ON RIFLES, SHOTGUNS AND AMMUNITION

##### *Purchase and Possession of Rifles and Shotguns*

1. A permit is required for the possession and purchase of rifles and shotguns.

2. No person of good character and reputation is to be denied a permit unless the issuance of a permit would not be in the public interest and unless the applicant (a) is under the age of 18; (b) has been convicted of felony or of certain misdemeanors unless such person has received a certificate of good conduct pursuant to section 242 of the State Executive Law; (c) has ever been confined to an institution for the treatment of mental illness, alcoholism or drug addiction unless such person has a letter signed by the licensed physician stating that the applicant is a sound person to possess a rifle or shotgun; (d) suffers from a physical defect or sickness unless satisfactory proof can be shown that the disability no longer incapacitates; (e) is a mental defective or an habitual drunkard; (f) has been adjudicated mentally incompetent or is addicted to narcotic drugs; (g) has received a dishonorable discharge from the military service.

3. A signed and sworn application (with fingerprints and photographs) is made to the Firearms Control Board, consisting of the police commissioner, the commissioner of licenses and the city clerk.

4. The fee for a rifle and shotgun permit, or renewal thereof, is \$3. This fee is refundable, upon written request, in the event of denial of a permit application.

5. A permit is valid for three years and is subject to automatic renewal upon sworn application, without investigation, unless the control board has reason to believe that the status of the applicant has changed since the previous application.

6. Non-residents may apply for a rifle

or shotgun permit or may purchase a rifle or shotgun without a permit under the following conditions: (a) he subscribes to a written statement that he does not suffer from any disability which would prevent a resident from obtaining a permit; (b) the rifle or shotgun is transmitted by the dealer directly to the purchaser's residence. (In the event the purchaser is traveling to a foreign nation, the dealer is authorized to deliver the firearm at the terminal of departure to a representative of the transportation company for placement aboard train, plane or ship.)

##### *Registration of Rifles and Shotguns*

1. A person possessing rifles and shotguns must file with the Firearms Control Board a declaration containing a full description of the firearm in order to obtain a registration certificate. (There is no charge for the issuance of a certificate.)

2. A licensed dealer may issue a certificate of registration to a purchaser of a rifle or shotgun. If the seller is not a dealer, the Control Board shall, within ten days of receipt of the report of disposition, issue the certificate of registration.

3. A rifle or shotgun permit and a certificate of registration must be obtained within 48 hours of bringing any long arm into the City.

##### *Exemptions from Permit and Registration Requirements*

Among the exemptions from the permit and registration requirements are: (a) persons under the age of 18 while in the actual presence or under the direct supervision of any person who is himself a holder of a rifle or shotgun permit; (b) antique rifles and shotguns incapable of being discharged or not firing fixed ammunition, and manufactured prior to 1894; (c) persons in military service, duly authorized or on duty; (d) non-residents in transit, provided no more than 48 hours elapse; (e) rifles obtained through the DCM and given to members of an accredited civilian rifle club, or members of a rifle team representing an educational institution; (f) the regular and ordinary transport of rifles and shotguns as merchandise.

##### *Transfer of Rifle or Shotgun upon Death of Owner*

A rifle or shotgun permit is not required for the passing of a rifle or shotgun upon the death of the owner. The



registration requirement, however, must be satisfied.

#### *Sale of Ammunition*

No rifle or shotgun ammunition may be sold or otherwise disposed of to any person not possessing a rifle and shotgun permit and certificate of registration. A record by the dealer shall be kept of each sale. (Ammunition will be sold only for the firearm covered by permit and registration.)

#### *Identifying Mark on Rifle or Shotgun*

Any rifle or shotgun sold or otherwise disposed of by a licensed dealer and which does not have a serial number "must have imbedded" into the metal portion of the firearm a dealer's number.

#### *Appeals Board*

A six-member appeals board, consisting of two representatives of the city sportsmen, two law enforcement officers and two representatives of the public, adopts, amends or repeals rules it deems necessary for the form and content of petitions for review and the procedure for their submission, processing, consideration and disposition. Any person may appeal a decision of the Firearms Control Board to the Permit Appeal.

#### *Possession in a Vehicle*

The presence, without a permit and registration certificate, of a rifle or shotgun, or ammunition therefor, in a vehicle shall be presumptive evidence of possession by all persons in the vehicle at the time.

#### *Gunsmiths and Dealers in Firearms*

Gunsmiths and dealers in rifles, shotguns and handguns must be licensed. The fee for a gunsmith's license is \$25 a year; for a dealer in firearms (all firearms or only rifles and shotguns), \$50. Gunsmith's and handgun dealer's license, by the Firearms Control Board.

#### *Penalty*

Violation is a misdemeanor punishable by a fine of not more than \$500, or imprisonment of not more than one year, or both.

**NOTE:** New York State law requires a license for the purchase, possession or carrying of a pistol or revolver. There are two basic kinds of licenses—a license to possess (in home or place of business) and a license to carry (either a limited license for target shooting or hunting, or both, or a general license for both protection and sporting purposes. A resident of New York City applies for a license to the City Police Commissioner.

### **NORTH CAROLINA STATE FIREARMS LAW**

The state law prohibits a person from carrying, except on his premises, a firearm concealed on or about his person.

A person must have a permit to acquire a handgun at any place within or without the state. Application for a permit is made to the sheriff of the county in which the applicant resides.

Before the sheriff shall issue the permit, he shall satisfy himself by affidavits, oral evidence or otherwise of the good character of the applicant, and that the applicant requires a handgun for self-defense or protection of the home.

No child under 12 years of age may possess or use any firearm for any purpose except when such child is under the supervision of a parent or guardian.

Dealers in handguns must obtain a license from the State Commissioner of Revenue.

Counties, cities or towns also may levy a tax, in addition to the state tax, not in excess of that levied by the state.

No permit or license is required to possess or to carry a handgun (openly), rifle or shotgun.

No person who has ever been convicted of a crime punishable by imprisonment for more than two years may purchase, own or possess any handgun.

A resident of North Carolina may purchase rifles or shotguns from a federal firearms licensee (manufacturer, importer or dealer) in an adjoining state, provided that the sale complies with the requirements for sale in both states and the provisions of the Federal Gun Control Act of 1968.

### **NORTH DAKOTA STATE FIREARMS LAW**

The state firearms law provides that a person must have a license in order to carry a handgun, openly or concealed, in any vehicle or on or about his person. Exceptions are: carrying on one's land, in one's abode or fixed place of business, or on a target range.

Application for a license is made to the sheriff of the county of the applicant's residence. If the applicant is a resident of a city in such county, the sheriff shall notify the chief of police of that city of the application. The police chief shall inform the sheriff in writing of his rejection or approval of the application.

A license may be issued to (1) any person residing or having a place of business within the county, or (2) any person

residing or having a place of business in the United States and also possessing a license to carry issued by any state or local government, "if it appears that the applicant therefor has good reason to fear an injury to his person or property or that there is another proper reason for the carrying of such weapon and that the applicant is a proper person to be so licensed".

No permit is required to purchase a handgun. However, a person may not sell or otherwise transfer such a firearm to a person who does not have a license to carry or who does not fall under one of the exceptions to the license requirement. These exceptions are law-enforcement officers, military personnel on duty, manufacturers and dealers, common carriers and persons permitted by law to possess a handgun while carrying the handgun from place of purchase to home, or to and from place of repair, or from one place of abode or business to another.

No person may sell or otherwise transfer any handgun to a person under seventeen years of age, or to any person who has been convicted anywhere within the last ten years of murder, manslaughter, robbery, burglary, kidnapping, arson, extortion, mayhem, forcible rape, unlawful entry, and any assault except simple assault and battery or any other crime involving the possession or use of a handgun; or who is a drug addict, alcoholic or emotionally unstable.

No person under 15 years of age may carry and use in public any firearm, except when accompanied by a parent or guardian or person authorized by the parent or guardian.

A retail dealer in handguns must hold a federal firearms dealer's license and also a municipal license from the local licensing authorities if such local license be required by city ordinance.

No license or permit is required to purchase or possess a rifle or shotgun.

No person who is not a citizen of the United States or who is not a citizen of Canada may hunt any wild bird or animal, except in defense of person or property.

The firearms law does not apply to the purchase, possession or sale of handguns more than 50 years old and possessed as curiosities or ornaments, or to the transportation of such handguns unloaded and in a container but not concealed on the person.

## OHIO STATE FIREARMS LAW

No person shall knowingly carry or have, concealed on his person or concealed ready at hand, any deadly weapon. ("Deadly weapon" is defined as "any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon".)

An affirmative defense to a charge of carrying concealed is that the person was not otherwise prohibited by law from having the weapon and that any of the following apply: (1) the weapon was carried or kept at hand for defensive purposes while the person was engaged in, or going to or from his lawful business or occupation, which business or occupation was such or was conducted in such a manner at a time or place as to render the person particularly susceptible to criminal attack; (2) the weapon was carried or kept ready at hand for defensive purposes while the person was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon himself or a member of his family or upon his home; (3) the weapon was carried or kept ready at hand for any lawful purpose and while in his own home; (4) the weapon was being transported in a motor vehicle for any lawful purpose and was not on the person and in compliance with the applicable requirements for carrying in a motor vehicle.

No person shall knowingly acquire, have, carry or use any firearm if such person (1) is a fugitive from justice; (2) is under indictment for or has been convicted of any felony of violence, or has been adjudged a juvenile delinquent for commission of such felony; (3) is under indictment for or has been convicted of an offense involving illegal possession, use, sale, administration, distribution or trafficking in any drug of abuse, or has been adjudged a juvenile delinquent for commission of such offense; (4) is a drug addict or in danger of addiction, or is a chronic alcoholic; or (5) is under adjudication of mental incompetence.

A person prohibited a firearm under (2) or (3), above, may apply to the court of common pleas in the county where he resides for relief from the prohibition.

No person shall knowingly discharge a firearm while in or on a motor vehicle.

No person shall knowingly transport or have a loaded firearm in a motor vehicle if the firearm is accessible to the

operator or any passenger without leaving the vehicle.

No person shall knowingly transport or have a firearm in a motor vehicle unless it is unloaded and carried in a closed package, box or case; or in a compartment which can be reached only by leaving the vehicle; or in plain sight and secured in a rack or holder made for the purpose; or in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

No person shall sell any firearm to a person under 18 years of age, or any handgun to a person under 21. Further, no person shall furnish any firearm to a person under 18, except for lawful hunting or instruction in firearms care, safety, handling or marksmanship under the supervision or control of a responsible adult.

A resident of Ohio at least 18 years of age may purchase rifles and shotguns from a federal firearms licensee in Indiana, Kentucky, Michigan, Pennsylvania or West Virginia, provided that the person complies with the requirements for sale in both states and with other conditions prescribed by the Federal Gun Control Act of 1968.

No state license or permit is required to possess, purchase or carry a rifle, shotgun or handgun. However, the cities of Cleveland and Columbus require a police permit for the purchase of a handgun; Toledo requires a handgun owner's identification card for the acquisition or purchase of a pistol or revolver; and Cincinnati requires an application for purchase of handgun.

Generally, visitors may transport target firearms and ammunition to matches and competitions within the state without police interference if firearms are unloaded and carried in gun cases.

## OKLAHOMA STATE FIREARMS LAW

The Oklahoma Firearms Act of 1971 permits a person to carry openly, without a license, handguns, rifles or shotguns when going to or returning from hunting, target shooting, a firearms safety class, a gunsmith, a store for purposes of repair or trade or sale, a military function, a police function, a gun show or exhibit, a point of private sale or transfer, or any

legitimate purpose not in violation of the law.

A person may carry or transport in a motor vehicle an unloaded handgun, rifle or shotgun at any time.

No person except a law enforcement officer, a registered security officer or a person employed by a licensed armored car firm may carry a concealed weapon.

No person may carry or use any firearm while under the influence of intoxicating liquors or drugs, or while under the influence of any physician-prescribed drug if the after effects of consumption of such drug affect mental, emotional or physical processes to a degree that would result in abnormal behavior.

No person may knowingly transmit, transfer, sell, lend or furnish any firearm to any person who is an adjudicated mental incompetent, or to any person who is a moron, idiot or is insane.

No person may knowingly sell, trade, give, transmit or transfer any firearm to any convicted felon or to any individual who is under the influence of alcohol or drugs, or who is mentally or emotionally unbalanced or disturbed.

No person may sell or give a pistol or revolver to a minor.

No person may transport a loaded firearm in a landborne motor vehicle over a public highway or roadway. However, a rifle or shotgun may be so transported when magazine or clip-loaded and *not chamber-loaded* when in a locked compartment of the vehicle, such as the trunk.

No person may transport or discharge a firearm from a boat under power or sail, except for the purpose of hunting and in compliance with federal and state laws.

No person may engage in reckless conduct with a firearm, such conduct consisting of creating a situation of unreasonable risk and probability of death or great bodily harm to another, and demonstrating a conscious disregard for the safety of another.

No person may willfully or without lawful cause point a firearm, whether loaded or not, at another for any purpose except in defense of one's person, home or property, or except by military or law enforcement personnel in performance of duty, or except in a theatrical performance.

A resident of Oklahoma may purchase rifles or shotguns from a federal firearms licensee in an adjoining state, provided that the sale complies with the requirements for sale in both states and the pro-

visions of the Federal Gun Control Act of 1968.

## OREGON STATE FIREARMS LAW

The state firearms law does not require a permit to purchase or possess a handgun, rifle or shotgun.

The carrying of a handgun concealed on the person or in a motor vehicle requires a license from the county sheriff or the head of the local police, as the case may be. A license will be issued if the applicant is of "good moral character" and "good cause exists" for the issuance of the license.

Among the exceptions to the license requirement are (1) members of a club or organization, while such members are using firearms at established target ranges or while going to and from such ranges; (2) licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from hunting or fishing.

Handguns carried openly in belt holsters are not considered as being concealed.

A person over the age of 18 years, who resides in, or is temporarily sojourning in the state, may own or possess, without a license, a handgun within his residence or place of business.

No person may sell or give any firearm to any person under 14 years of age.

No alien or person convicted of a felony may possess or own any concealable firearm.

No person may sell, deliver or transfer a handgun to a person under 18 years of age, an alien or a person convicted of a felony.

Retail dealers in handguns must be licensed. Application for a dealer's license is made to the licensing authorities of the city, town or county in which the business is located.

A seller may not deliver a handgun to a purchaser until 120 hours shall have elapsed after application for purchase and unless the purchaser is personally known to the seller or presents clear evidence of his identity.

Every citizen of the state above the age of 16 is entitled to have exempt from execution one rifle or shotgun and one handgun.

A resident of Oregon may purchase or otherwise acquire a rifle or shotgun from a Federal firearms licensee (manufacturer, importer or dealer) in a bordering state, provided that the sale meets the

conditions of sale in both states and the seller and purchaser comply with the sworn-statement notification and waiting-period requirement of the Federal Gun Control Act of 1968.

## PENNSYLVANIA STATE FIREARMS LAW

A person must have a license to carry a handgun in a vehicle or concealed on or about his person. Application for a license is made to the police chief of a city or the sheriff of a county, as the case may be, who may issue a license for not more than one year if it appears that the applicant is a suitable person and has a good reason to fear injury to his person or property, or has any other proper reason for carrying a firearm.

Among the exceptions to the requirement of a license to carry are the following (1) "... the regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from this Commonwealth"; (2) "... the members of any organization incorporated under the laws of this Commonwealth engaged in target shooting with rifle, pistol or revolver, provided such members are at or are going to or from their place of assembly or target practice"; (3) "... persons licensed to hunt or fish in this Commonwealth, provided that such persons are actually hunting or fishing or are going to the places where they desire to hunt or fish or returning from such places, or to persons training dogs: Provided, that such persons are actually training dogs during the regular training season: Provided, however, that before such exemption shall be granted to any person licensed to hunt or fish or who desires to train dogs, such person shall at the time of securing his hunting or fishing license or any time after such license has issued, register with the county treasurer the make of the firearm he desires to carry and the caliber and number thereof ...".

No seller may deliver a handgun to any purchaser until a period of at least 48 hours has elapsed from the time of application for the purchase of the firearm. At time of purchase, the purchaser must sign and deliver to the seller a statement containing information identifying the purchaser and firearm to be purchased.

No handgun may be delivered to any person under 18 years of age or to any person who the deliverer has reasonable cause to believe has been convicted of a

crime of violence, or is a drug addict, an habitual drunkard or of unsound mind. Further, no handgun may be sold under any circumstances unless the purchaser is personally known to the seller or presents clear evidence of his identity.

No person who has ever been convicted of a crime of violence may own or possess a handgun. (Crime of violence means any of the following or attempt to commit the same: murder, rape, mayhem, aggravated assault and battery, assault with intent to kill, robbery, burglary, breaking and entering with intent to commit a felony, and kidnapping.)

No person may sell, give or furnish to any person under 18 years of age any "starter pistol" (designed to discharge blank cartridges) or similar handgun.

Retail dealers in handguns must be licensed by the police chief of the city or, elsewhere, by the county sheriff.

Any applicant who has been refused a permit to carry a handgun or a retail dealer's license can appeal such refusal within 30 days to the court of quarter sessions of his county.

No license or permit is required to possess, purchase or carry a rifle or shotgun.

No person may possess a loaded firearm of any kind in any vehicle or conveyance, or its attachments, upon any public highway or highway open to or used by the public. (Exceptions are: hunting or trapping on one's lands, or licensed carrying of a handgun.)

No alien may possess any kind of firearm in Pennsylvania.

Antique firearms unsuitable for use and possessed as curiosities or ornaments are excepted from the waiting-period and license provisions of the law.

No dealer or other person may sell, lend, rent, give or transfer to any person under the age of 18 years any air rifle, air pistol, spring rifle, spring pistol, BB gun or any other weapon which projects a pellet of any kind so as to cause bodily injury, except where the relationship of parent and child, guardian and ward, or adult instructor and pupil exists between such person and child.

Possession of an air rifle by a person under 18 years of age is lawful if the air rifle is (1) kept within his domicile; (2) used by that person in his activities as a member of any club, team or society organized for educational purposes which has an indoor or outdoor rifle range under the guidance, supervision and instruction of a responsible adult;

and (3) used in such a manner as not to endanger persons or property and under such conditions as to prevent a discharged projectile from crossing any grounds or area outside of the range facilities.

A resident of Pennsylvania may purchase rifles or shotguns from a federal firearms licensee in an adjoining state, provided that the sale complies with the requirements for sale in both states and the provisions of the Federal Gun Control Act of 1968.

#### PHILADELPHIA FIREARMS ORDINANCE

A person must obtain a license in order to acquire or transfer any firearm in the City of Philadelphia. This requirement also applies to a firearm acquired outside of Philadelphia and brought into the City.

Application for a license is made to the Department of Licenses and Inspections. No license will be issued unless the Police Department, after investigation, approves the application.

Each transaction of acquisition or transfer, regardless of the number of firearms, requires a license at a fee of one dollar.

An application for a license shall contain the following information: (1) name of the applicant; (2) home address and other residence addresses within last five years; (3) present business or occupation, and any other business or occupation within the last five years; (4) date and place of birth; (5) caliber, length of barrel, make, model and, if known, serial number of firearm; (6) a statement indicating date, place, nature and disposition of any criminal proceedings brought against the applicant for any offense other than traffic violations; (7) name, address and occupation of the person from whom the firearm is to be acquired or transferred; and (8) a copy of applicant's fingerprints and photograph.

The Police shall not approve the application if it finds that the applicant is: (1) under 18 years of age; (2) a person convicted of either a crime of violence, any violation of the State firearms law or carrying a concealed deadly weapon; (3) a person convicted of selling, using or possessing narcotics; or (4) an habitual drunkard.

A license shall be issued or refused within 30 days after filing of an application.

A person carrying a firearm on or

about his person must carry the license for that firearm on his person. An exception is a person less than 18 years of age accompanied by the parent or guardian licensed to acquire or transfer that firearm.

A license shall be revoked if, subsequent to receiving a license, the licensee has (1) been convicted of a crime of violence, a violation of the State firearms law or carrying a concealed weapon; (2) been convicted of selling, using or possessing narcotics; or (3) become an habitual drunkard.

No person shall transfer any firearm to any person who does not exhibit the required license.

If no firearm serial number appears on the license, the transferor or vendor shall insert said number in the license and shall immediately notify the Police Department of the transfer of the firearm and of the serial number inserted on the license.

No license shall be required (1) by a governmental agency; (2) for transfers between manufacturer and dealer, or between dealer and dealer, in the ordinary course of business; or (3) for licensed pawnbrokers, until the pawnbroker transfers the firearm to a person other than the owner.

Penalty for violation of the ordinance is a fine of not more than \$300 or imprisonment for not more than 90 days, or both.

No person may display any ammunition on any open counter or in any other place readily accessible to any person coming upon the premises.

No person may sell any ammunition to a person under 21 years of age. Further, no person may sell any ammunition to any person who does not produce written identification and registers his name and address and the purpose for which the ammunition is being purchased.

The sale of ammunition requires a license from the Department of Licenses and Inspection. A dealer must have a permit to store firearms for sale.

No person may sell at retail, use or possess any air gun or any implement not a firearm which forcefully discharges a pellet of any kind.

#### PUERTO RICO FIREARMS LAW

The Commonwealth of Puerto Rico has two basic laws governing the possession and use of firearms—the Weapons Law and the Target-Shooting Law.

The Weapons Law applies to a person who wishes to possess or carry a firearm for protection purposes.

The Target-Shooting Law applies to a person who wishes to possess and carry a firearm for marksmanship purposes at a range.

#### Weapons Law

A license is required to possess, carry or transport any firearm. Application for a license to possess a firearm is made to the Chief of Police of Puerto Rico. Application for a license to carry or transport a firearm is made to the District Court of Puerto Rico.

No dealer in firearms or ammunition shall deliver a firearm or any ammunition to a purchaser who does not have a license to possess or a license to carry or transport a firearm. The license must contain an authorization (a removable "sales slip") for the purchase or acquisition of the firearm. Further, no firearm may be delivered to the buyer until 48 hours shall have elapsed from the time of application for purchase.

All firearms must be registered with the Chief of Police of Puerto Rico.

#### Target-Shooting Law

A target-shooting license is required to possess and carry "the usual target-shooting weapons" for target practice at a range. Application for this license is made to the Chief of Police of Puerto Rico.

A target-shooting license does not "authorize its holder to carry weapons in a pocket, in his hands, on his waist, or in holsters or cases hanging from his belt or shoulder or any part of the human anatomy, but such weapons shall at all times be carried in a box, suitcase, or case, and the weapons shall always be unloaded", except while at a range.

All target-type firearms must be described on the license and must be registered with the Chief of Police of Puerto Rico.

The holder of a target-shooting license may purchase, sell, exchange or donate target-shooting firearms, upon approval of the Chief of Police of Puerto Rico, provided that the transaction is made with a person who is also a holder of a target-shooting or game license, or is an authorized firearms dealer.

#### RHODE ISLAND STATE FIREARMS LAW

The state law requires a license for the carrying of a handgun, concealed or openly, in any vehicle or on or about the person, except in his dwelling house or place of business.

Application for a license is made to the



licensing authorities of any city or town, who may issue a license to any person 21 years of age or over, having a place of business or residing within such a town or city, or to any person residing in the United States and having a license to carry from any state or subdivision thereof.

The Rhode Island attorney general may issue a license to carry a handgun to any person at least 21 years upon proper showing of need.

Exceptions to the requirement of a license to carry a handgun are: (1) a person carrying a handgun from his home or place of business to a target range, and returning therefrom, provided that the firearm is unloaded and secured in a suitable container; (2) a person carrying a handgun in his home or place of business or on his land; (3) members of organizations authorized to purchase or receive firearms from the United States or the state, provided such members are at or going to or from their places of assembly or target practice.

A pre-requisite to a license to carry is a certification of qualification with a handgun of a caliber equal to, or larger than, the one intended to be carried. The range officer of the State Police or local police department, NRA and USRA handgun instructors and such other qualified persons as the attorney general may designate, are authorized to certify the qualification.

A prospective purchaser of a handgun must complete a form in triplicate giving certain information on himself at the time of applying for purchase. If, after the lapse of 72 hours, no disqualifying record has been received from the investigating police authority, the seller may deliver the firearm to the applicant. (This application form must be filled out *and approved* for purchases *outside* the state.)

No person may sell any firearm or ammunition to any minor under 15 years of age.

No minor under 15 years of age may possess and use any firearm unless, with the consent of a parent or guardian, he holds a permit from the State Police or local police chief and is engaged in a firearms training program approved by the police and under a qualified adult.

The following persons may not possess any firearm: a person convicted of a crime of violence, a mental incompetent, a drug addict and a habitual drunkard.

No person may deliver a concealable firearm to any person under 21 years of

age or to the classes of persons mentioned immediately above.

A retail dealer in handguns must obtain a license from the licensing authorities of any city or town or other political subdivision in which the business is located.

An unnaturalized foreign-born person who has resided in the United States for less than ten years may not purchase, possess, carry or transport any concealable firearm, except when passing through the state or arriving in the state to compete in a match organized under the auspices of a national shooting organization.

No person may carry a loaded rifle or shotgun in any vehicle or attachment thereto.

Antique firearms unsuitable for use and collections of firearms as curios, souvenirs or for educational, scientific or similar purposes are exempt from the provisions of the firearms law.

No license or permit is required to purchase, possess or carry a rifle or shotgun.

#### SOUTH CAROLINA STATE FIREARMS LAW

No person may carry either concealed or openly any pistol about the person.

Among the exceptions to the foregoing prohibitions are: (1) members of organizations authorized by law to purchase or receive firearms from the Federal Government or the State; (2) regularly enrolled members of clubs organized for target shooting or collecting firearms while such members are at or going to or from their places of target practice or their shows and exhibits; (3) licensed hunters and fishermen while engaged in hunting or fishing and going to and from their places of hunting and fishing; (4) any person in his home or on his property, or fixed place of business; (5) any person in any vehicle where the pistol is secured in a closed glove compartment or closed trunk; (6) any person carrying a pistol unloaded in a secure wrapper from place of purchase to his home or place of business, or while in the process of moving from one residence or place of business to another.

No person may sell or deliver any pistol to any person who has been convicted of a crime of violence, or who is a fugitive from justice or habitual drunkard or drug addict, or who has been adjudicated mentally incompetent or who has been judicially adjudged unfit to possess or

carry a pistol, who is a member of a subversive organization, or who is a person under 21 years of age. (An exception to the last is a person under 21 when on duty or in training with the active or reserve forces, or when receiving marksmanship instruction under the immediate supervision of a parent or adult instructor.) None of the foregoing persons may acquire or possess a pistol.

All retail dealers in pistols must obtain a license from the clerk of court of the county in which the business is located. A dealer's license shall be valid for two years from the date of issuance, and the issuance fee shall be \$25.

A dealer must maintain records of all pistols sold, and such records must be retained by the dealer for a period of three years from the date of sale or transfer to which the records relate.

No permit or license, and no registration, is required for the purchase, possession or carrying of any firearm.

A resident of South Carolina may purchase rifles or shotguns from a federal firearms licensee in an adjoining state, provided that the sale complies with the requirements for sale in both states and the provisions of the Federal Gun Control Act of 1968.

#### SOUTH DAKOTA STATE FIREARMS LAW

The state law prohibits a minor under the age of 15 years from having or using a firearm of any type without the knowledge and consent of parent or guardian.

No person shall carry a handgun in any vehicle or concealed on or about his person, except in his place of abode or fixed place of business, without a license. The judge of a court of record, the chief of police of a municipality or the sheriff of a county may issue a license if it appears that the applicant has good reason to fear an injury to his person or property, or has any other reason for carrying a pistol and that he is a suitable person to be so licensed.

Among the exceptions to the law requiring a license to carry a concealed firearm are: (1) regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from this state, provided such members are going to or from their places of assembly or target practice; (2) persons carrying an unloaded handgun to and from a place of repair, or moving from one place of abode or business to another.



No seller shall deliver a pistol to the purchaser thereof until 48 hours shall have elapsed from the time of the application for the purchase thereof, and when delivered said pistol shall be securely wrapped and shall be unloaded.

No person who has been convicted of a felony in any court may own or possess a handgun.

No person shall deliver a handgun to a person under 18 years of age or to one whom he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard or of unsound mind.

All retail dealers in handguns must be licensed. Application for a license is made to the licensing authorities of any city, town or other political subdivision of the state.

An alien who has not declared his intention to become a naturalized citizen within the time specified by law, or who, having declared his intention of becoming a citizen, has failed to do so within the legal length of time, is not entitled to hunt on his own land without a license and is not entitled to a resident license. He is subject to all hunting laws pertaining to non-residents.

The carrying or possession of firearms or air guns on school grounds or in school buildings is prohibited, except for use at a supervised range or training program.

## TENNESSEE STATE FIREARMS LAW

The state law prohibits the carrying in any manner of any pistol or revolver "with the intent to go armed". Exceptions are military or law-enforcement personnel or train conductors while on duty.

A person may carry an unloaded and cased handgun about his person or in a motor vehicle (outside of reach of driver or owner of handgun) for the specific purpose of going to and returning from hunting or target shooting.

Any person desiring to purchase a sidearm must certify to the seller the purpose for which the handgun is to be used and that he is not in one of the following excluded classes:

minors, aliens, persons convicted of a crime of violence, fugitives from justice, persons of unsound mind, drunkards, drug addicts or persons convicted of the illegal sale of alcohol beverages. The seller must file with the county sheriff, or the chief of police if the sale be within a municipality, a copy of the certificate as

notice of the pending sale.

Delivery of the handgun with a bill of sale may be made if, after fifteen days from the time of receipt of the notice by the police, the sheriff or police chief makes no objection showing that the proposed purchaser is, in fact, excluded by law from buying a pistol or revolver.

No permit or license is required for the purchase, possession or carrying of a rifle or shotgun.

Dealer in handguns must be licensed. Application for a dealer's license (\$10 a year) is made to the State Commissioner of Revenue.

Dealers in shotgun shells or metallic cartridges must be licensed by the State Fish and Game Commission.

No person may sell, offer to sell or bring into the state for the purpose of sale or transfer any pistol or revolver, provided that any person licensed by the state to sell firearms may stock and sell handguns to persons desiring them for protection of their home or business or for target practice.

No dealer's license is required for the "occasional sale of a used or secondhand gun" by a private individual to another. However, the waiting period applies.

A resident of Tennessee may purchase a rifle or shotgun from a federal firearms licensee in an adjoining state, provided that the sale meets the requirements for sale in both states and applicable requirements of the Federal Gun Control Act of 1968.

## TEXAS STATE FIREARMS LAW

No person may intentionally, knowingly or recklessly carry on or about his person a handgun, illegal knife or club. Exceptions to the foregoing prohibition are (1) a peace officer, a member of the armed forces or National Guard, a guard of a penal institution in the actual discharge of official duties; (2) a person on his own premises or premises under his control; (3) a person traveling; (4) a person engaged in lawful hunting or fishing or other lawful sporting activity.

No person may intentionally, knowingly or recklessly go with a firearm on the premises of a school or an educational institution, whether public or private, unless pursuant to the written regulations or written authorization of the school or institution. Further, no person with a firearm may enter the premises of a polling place on an election day. Exceptions are peace officers or members of the armed forces or National Guard in the actual discharge of official duties.

No person may possess a firearm away from his premises if he has been convicted of a crime of violence.

No person may sell, rent, lease, loan or give a handgun to any person who intends to use it unlawfully. In addition, no person may sell or give any firearm to a person under 18 years of age or to any intoxicated person. A sale transfer of a firearm may be made to a person under 18 with the written permission of a parent or guardian; a transfer other than a sale may be made to such person under 18 if the parent or guardian had given "effective consent".

No person may intentionally or knowingly possess, manufacture, transport, repair or sell an explosive weapon (bomb, grenade, rocket or mine); machine gun; short-barrel firearm (rifle with a barrel less than 16 inches in length, shotgun with a barrel less than 18 inches, or any weapon made from a rifle or shotgun if, as altered, has an overall length of less than 26 inches); firearm silencer; switchblade knife; or knuckles. Exceptions are: (1) possession pursuant to the National Firearms Act of 1968; (2) conduct incidental to the performance of official duty by the armed forces or National Guard, a law enforcement agency or a penal institution; (3) conduct incidental to dealing with a switchblade or springblade knife, or short-barrel firearm solely as an antique or curio.

A resident of Texas may purchase rifles or shotguns from a federally licensed firearms manufacturer, importer or dealer in an adjoining state provided the sale complies with the legal requirements for sale in both states.

No state license or permit is required to possess, purchase or carry a rifle or shotgun. Further, the law does not require a permit to purchase or possess a handgun and has no provision for a license to carry.

To engage in the business of selling concealable firearms at wholesale or retail, a person must obtain a license from the county tax collector of the county in which the business is located. The fee ("annual occupation tax") is ten dollars. A dealer must keep records of all handguns disposed of for a period of ten years. (The state license is in addition to the requirement of a federal firearms dealer's license.)

## UTAH STATE FIREARMS LAW

A person must have a license to carry a concealed firearm. The head of the police department of any city or county,

upon proof that the person applying for a license is of good character, and upon a showing that good cause exists for the issuance of a license, may issue to the applicant a license for a period of one year.

A license application shall include the fingerprints of the applicant and payment of a \$3 fee. A copy of each license issued shall be filed by the issuing officer with the State Bureau of Criminal Identification.

The Stat Bureau of Criminal Identification shall revoke a license within thirty days after receiving notification that a license holder has violated any law (except traffic rules and regulations) of any state, government or country. A person whose license has been revoked shall not henceforth be granted a license.

Exceptions to the license requirement are: (1) federal officials required to carry firearms while engaged in the performance of their official duties; (2) law enforcement officials of any jurisdiction while engaged in the performance of their official duties; (3) common carriers while engaged in the regular and ordinary transport of firearms as merchandise; (4) non-residents traveling in or through the state, provided that the firearm is unloaded and enclosed in a case, box or package, or held securely in a gun rack or locked in the trunk of an automobile.

Any person who is not a citizen of the United States, or who has been convicted of a crime of violence in any domestic or foreign jurisdiction, or who is a drug addict, or has been declared mentally incompetent shall not own or possess any firearm or dangerous weapon.

No person may carry a loaded firearm in a vehicle or on any public street in an incorporated city or in a prohibited area of an incorporated territory within the state.

No person shall discharge any firearm from an automobile or other vehicle, or discharge a firearm from, upon or across any highway.

A minor under the age of eighteen may not possess any firearm unless he has the permission of his parent or guardian, or unless he is accompanied by a parent or guardian while such minor has a firearm in his possession. In any event, a minor under fourteen must be accompanied by a responsible adult.

Any citizen over eighteen who is not in any of the prohibited classes (see paragraph 5, above) may own or possess within his place of residence or business

or vehicle any concealable firearm without a license. Further, nothing shall prevent any person (prohibited classes excepted) from having a loaded firearm at his place of residence, including any temporary residence or camp.

A resident of Utah may purchase rifles and shotguns from a federal firearms licensee (manufacturer, importer or dealer) in an adjoining state, provided he complies with the requirements for sale in both states.

## VERMONT STATE FIREARMS

### LAW

The state law prohibits the carrying of a dangerous or deadly weapon, concealed or openly, with the intent or purpose of injuring another.

No person, firm or corporation, other than a parent or guardian, is allowed to sell or furnish firearms or ammunition for firearms to any minor under the age of 16 years. This does not apply to an instructor or teacher who furnishes firearms to pupils for instruction and drill.

A person under 16 years of age must have the consent of his parent or guardian in order to possess a handgun.

No permit or license is required for the possession, purchase or carrying of a handgun, rifle or shotgun.

A resident of Vermont may purchase rifles or shotguns from a federal firearms licensee in an adjoining state, provided that the sale complies with the requirements for sale in both states and the provisions of the Federal Gun Control Act of 1968.

## VIRGIN ISLANDS FIREARMS LAW

All firearms, except handguns, must be registered with, and licensed by, the Commissioner of Public Safety within 48 hours of purchase, ownership or possession of the firearms.

To purchase, own or possess a pistol or revolver, a person must apply for a license beforehand to the Commissioner of Public Safety. The application must contain a statement of purpose of ownership or possession and must be endorsed by two residents of good repute.

Licenses may be issued by the Commissioner of Public Safety (in his discretion) under payment of an initial registration fee of \$3 for each rifle or shotgun and \$5 for each pistol or revolver.

Upon entering the Virgin Islands, non-residents must register all firearms

owned or possessed by them and pay the registration fee indicated above.

Permanent exemption to the registration and license requirements may be granted by the Commissioner of Public Safety to owners of firearms who collect them for historical or decorative purposes.

Upon registration, the Commissioner of Public Safety shall issue an identification card bearing the holder's name, photograph, full description of firearms and, in the case of pistols or revolvers, fingerprints of the person in question.

## VIRGINIA STATE FIREARMS

### LAW

The firearms law of Virginia provides that a person must have a license to carry a pistol or revolver concealed on or about his person. Application for a license is made in writing during term time to a circuit or corporation court which may grant permission to carry concealed upon satisfactory proof of good character and necessity for such carrying.

Although there is no general requirement of a permit to purchase a handgun, a permit to purchase or sell such a firearm is required in any county having a population density or more than one thousand a square mile.

Presumably, a handgun may be carried, without a license, in a vehicle, provided that the firearm is not concealed on or about the person.

The furnishing, selling, bartering or other transfer of a handgun to a minor under age 18 years is prohibited.

Retail dealers in concealable firearms must obtain a license at a cost of \$5 from the state. The governing body of any county may impose a license tax of not more than \$25 on dealers in pistols and revolvers.

The governing body of any county may require sellers of handguns to furnish the clerk of the circuit court of the county, within 10 days of sale, with the name and address of the purchaser, the date of purchase, and the number, make and caliber of the firearm sold.

No permit or registration is required to keep a handgun in one's home or place of business.

No license or permit is required to possess, purchase or carry a rifle or shotgun.

A resident of Virginia may purchase a rifle or shotgun from a federal firearms licensee in an adjoining state, provided that he meets the requirements for sale in

both states and with the conditions prescribed by the Federal Gun Control Act of 1968.

Any county may prohibit the shooting of firearms or air or gas-operated guns in any area of the county which is heavily populated and which is designated as a no-shooting area by the board of supervisors.

#### WASHINGTON STATE FIREARMS LAW

The firearms law of Washington State provides that no person shall carry a handgun in a vehicle unless it is unloaded or carry a handgun concealed on the person (except in his home or fixed place of business) without a license.

Application for a license is made to the judge of a court of record, police chief of a municipality or the county sheriff. Such license shall be issued within thirty days of date of application "for the purpose of protection or while engaged in business, sport or while traveling" unless the applicant has a record of prior court conviction of a crime of violence, drug addiction, habitual drunkenness or of confinement to a mental institution.

Among the exceptions to the license requirement are: (1) regularly enrolled members of any organization authorized to purchase or receive handguns from the United States or from Washington State; (2) regularly enrolled members of clubs organized for target shooting or collecting modern or antique firearms; (3) individual hunters, provided such persons in the foregoing classifications are at, or are going to or from their places of target practice, or their collector's gun shows and exhibits, or are on a hunting, camping or fishing trip.

No seller may deliver a handgun to the purchaser until 72 hours has elapsed from the time of application for purchase. At the end of this waiting period, the seller may deliver the handgun to the purchaser unless the seller has been notified in writing by the police that the application has been denied because the purchaser has been convicted of a crime of violence, drug addiction or habitual drunkenness, or is legally judged to be of unsound mind.

No handgun firearm may be delivered to any person under twenty-one years of age or to a person who the deliverer has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, a habitual drunkard or of unsound mind.

No minor under 14 years of age may handle or possess any firearm, except while accompanied or under the immediate charge of his parent or guardian or other adult approved by the parent or guardian, or while under the supervision of a certified safety instructor at an established range or training class.

Retail dealers in handguns must be licensed by the local licensing authorities of a city or town or other political subdivision of the state.

No license or permit is required to purchase or possess any firearm.

No person who has been convicted of a crime of violence may own or possess a handgun.

Excepted from the provisions of the firearms law are antique handguns manufactured before 1898 and held as collector's items.

Aliens are required to have a special license from the Director of Motor Vehicles in order to carry or possess any firearm.

No person may carry or possess a loaded rifle or shotgun in any motor-driven or horse-drawn vehicle.

A resident of Washington State may purchase rifles and shotguns from a federal firearms licensee in an adjoining state, provided that he complies with the requirements for sale in both states and the purchaser's state of residence permits such sale or delivery.

#### WEST VIRGINIA STATE FIREARMS LAW

A person must have a license to carry a handgun either openly or concealed. No permit to purchase is required.

Application for a license to carry is made to the circuit court of the county of the applicant's residence. A person must be over 21 years of age, a citizen of the United States and a resident of the state for at least one year prior to date of application in order to receive a license.

Among the requirements for application are: publication of notice of application in a newspaper of the county of residence at least ten days prior thereto, good moral character, reason for wanting a license, United States citizenship, state and county residence.

Before issuance of a license, the applicant must pay to the sheriff a fee of \$20.00 and file a bond with the clerk of the circuit court in the sum of \$3,500.

An exception to the license requirement is a person who is a member of a properly organized target shooting club

and who is going to and returning from target practice.

A person must have a license to possess, carry or transport a "high powered rifle, or any gun of similar kind or character, or any ammunition therefor". Exceptions are (1) a person's premises; (2) "bona fide rifle club members who are freeholders or tenants for a fixed term in this State, at their usual or customary place of practice, or licensed hunters in the actual hunting of game animals." (The term "high powered rifle" is not defined in the law.)

Application for a license to possess or carry a "high powered rifle" is made to the Superintendent of the Department of Public Safety or the circuit court as in the case of handguns.

No person may possess a loaded firearm in any vehicle or attachment thereto while on any public highway or highway open to the public.

Retail dealers of handguns must be licensed.

Shooting on a regularly used rifle, pistol, shotgun, target or trap shooting ground or range is permissible in Sunday.

An alien may not possess a firearm of any kind, unless granted a special hunting license by the Director of the Department of Natural Resources.

#### WISCONSIN STATE FIREARMS LAW

The state law does not require a permit or license for the purchase, possession or carrying of a handgun, rifle or shotgun.

No person may carry a firearm concealed on or about the person.

No person may sell, loan or give a handgun to a minor. This prohibition does not apply to the transfer by an adult of a handgun to a minor for use in target practice under the adult's supervision.

A person under the age of 16, unless accompanied by a parent or guardian, may not have in his possession or under his control any firearm of any kind for hunting or target practice or any other purpose. Exempted is any child between the ages of 14 and 16 who has in his possession a certificate attesting to his successful completion of a course of instruction in hunter safety and in the handling of all types of firearms commonly used in hunting.

In areas frequented by deer, the hunting regulations prohibit the possession of any rifle other than a .22 rimfire chambered for cartridges less than one inch in

length, or any shotgun shells loaded with shot larger than No. BB or any divided or cut shells or any shells loaded with single slug or ball from June 1 to December 31.

The foregoing prohibition does not prohibit the carrying of lawful firearms or ammunition into these areas beginning five days before the deer or bear seasons with firearms and ending at midnight of the third day following the close of the season, provided the firearms are unloaded and enclosed within a carrying case.

Restricted rifles and ammunition may be transported in deer areas by merchants, gun collectors and gunsmiths or persons traveling directly to an established target range where they may be used, if carried in such a manner that they cannot be operated en route.

Throughout the state, no person may possess in the field (1) shot larger than No. BB during the period of three days prior to the opening of the deer season through the close of the season; (2) a rifle larger than .22 rimfire which is loaded or uncased, in any area in which a shotgun only season for deer is in effect; (3) any shot shell loaded with single slug or ball except during the firearms seasons for deer and bear.

#### WYOMING STATE FIREARMS LAW

The state law requires that a person must obtain a permit from the county sheriff in order to carry a handgun concealed. A permit may be issued by the sheriff to travelers, merchant police, private detectives or other persons who may be required by their work to carry a concealed handgun, or who, in the opinion of the sheriff, are otherwise qualified.

A permit to carry concealed is valid for three years but may be revoked by the sheriff at any time if, in the opinion of the sheriff, the permittee's conduct is contrary to the public interest.

No person may sell, barter or give any handgun to a person under 21 years of age. Handgun ammunition may not be sold to anyone under 16 years of age.

Aliens are not allowed to own, possess, wear or carry any type of firearm.

No permit or license is required to purchase, possess or carry a handgun (openly), rifle or shotgun.



THE ASSOCIATION OF THE BAR  
OF THE CITY OF NEW YORK  
42 West 44th Street, New York, N.Y. 10036

## Gun Control Legislation

By THE COMMITTEE ON FEDERAL LEGISLATION

### INTRODUCTION

Since the enactment of the Gun Control Act of 1968 there has been a substantial increase in the incidence of gun-related crimes and it has become evident that the existing system of law is inadequate. Efforts have been underway in both Houses of Congress to enact further gun control legislation and the Executive Branch has indicated support for stronger gun control. Both the Subcommittee on Crime of the House Committee on the Judiciary and the Subcommittee on Crime and Juvenile Delinquency of the Senate Committee on the Judiciary have accumulated a substantial factual record on which to base legislation.

We believe that the contribution of handguns to the current increase in homicide and other violent crimes requires immediate and comprehensive action. In our opinion, the continued existence of an unwarranted supply of handguns is an underlying factor in the decline of our major urban centers. This Committee does not find any substantial justification for the continued widespread public possession of handguns, and, accordingly, we strongly endorse the legislative proposals calling for a prohibition on the manufacture, importation, sale, and private possession of handguns.<sup>1</sup> Whether or not our recommendations are politically feasible at this moment in time, we are of the firmly held conviction that a complete ban on handguns should be the ultimate objective of any new federal gun control legislation.

This report is divided into four parts. Part I describes the current federal law and the congressional proposals for change. Part II examines the constitutional bases for Congress legislating a prohibition on the manufacture, importation, sale, and private possession of handguns. Part III discusses the need for adopting far-reaching gun control legislation. Our recommendations are contained in Part IV.

### I. PRESENT LAW AND PROPOSALS FOR CHANGE

#### A. Current Federal Law

The Gun Control Act of 1968<sup>2</sup> was enacted with the stated purpose of providing support to local law enforcement officials in their fight against crime. The statute expressly provides that it is not intended to place undue

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restrictions on law abiding citizens with respect to the acquisition, possession or use of firearms for recreational or other lawful purposes. It attempts to accomplish these ends by two principal means: the elimination of interstate transport of firearms and ammunition, except between licensed dealers; and the elimination of the importation of guns that are not suitable for sporting purposes.

Section 922 of the act makes it unlawful for any person to engage in the business of importing, manufacturing or dealing, without having a federal license, and then provides that no licensed dealer may ship firearms or ammunition in interstate commerce to any person other than another licensed person. The section further provides that no person other than a licensed dealer may transport or receive in the state where he resides any firearms purchased outside the state, or may sell any firearm to any person, other than a licensed dealer, who the seller knows or believes resides in a different state from that of the seller.

Section 922 also forbids licensed dealers from selling firearms or ammunition to someone who does not reside in the licensee's state, or in violation of local law, or where the purchaser would be violating local law, or to persons who have been indicted or convicted of crimes, are fugitives from justice, unlawful users of marijuana or narcotics, or are adjudicated mental defectives or incompetents. Section 922 additionally provides that it shall be unlawful for any person to sell, ship, or receive any stolen firearm or ammunition. Finally, section 925(d) of the act authorizes firearms or ammunition to be imported if they are used for scientific or research purposes, or are generally recognized as particularly suitable for or adaptable to sporting purposes.

The weaknesses in this act are many.<sup>3</sup> The most important are that the act does not reduce the overall size of the existing gun population, nor does it regulate hand-to-hand or street sales of privately owned guns. The provision banning the importation of non-sporting purpose guns does not bar the importation of foreign-manufactured parts and the subsequent domestic assembly in the United States. Most importantly, the act has failed in its stated purpose to support local officials in their fight against crime.

## *B. The Legislative Proposals*

At the present time the principal gun control legislation in Congress is embodied in the proposals representing the positions of the House and Senate subcommittees that have dealt with the subject.<sup>4</sup> The positions of these subcommittees are substantially in accord in basic approach, namely to strengthen the restrictions of the Gun Control Act of 1968. The common elements of the legislation are a restriction on multiple sales to individuals, additional requirements for purchasers of firearms, and mandatory sentences for commission of federal crimes while using firearms.

Section 301 of the House bill and section 207 of the Senate bill deal with requirements for purchases from licensed dealers. All purchases must be in person and the purchaser must supply an affidavit setting forth his name,

address, the place where the firearm will be kept, and evidence that the purchase will not violate any local law. Each bill requires that the application be submitted to the Federal Bureau of Investigation and to the chief law enforcement officer of the place where the purchaser intends to maintain the firearm. The law enforcement agencies are given a restricted period of time to respond to the application and if no response is made within that time, the sale may go through.

In addition, section 209 of the House bill and section 203 of the Senate bill restrict the number of sales by dealers to one individual. The House bill provides that one person may not purchase more than two handguns in each 30 day period, and the Senate bill provides for the purchase of no more than two handguns per year. Section 213 of the House bill and section 301 of the Senate bill require mandatory penalties for the use of a firearm during the commission of a federal crime.

There are two additional features of the House bill. Section 203 provides new restrictions upon persons making application to be licensed dealers. Law enforcement checks upon such persons are required and the fees for being a dealer are substantially increased. The other principal feature is the establishment of a National Handgun Tracing Center. Section 210 of the bill requires that serial numbers be placed on all firearms hereafter manufactured or imported and section 302 requires that quarterly reports of guns manufactured, imported and sold by every licensed person under the act be provided to the Treasury Department. The purpose of these provisions is to provide an understanding of the numbers and locations of gun sales in order to establish a picture of the firearms commerce in the United States.

The principal feature of the Senate bill is a prohibition on "Saturday night specials." \* Section 204 provides that no handgun may be sold unless it is approved by the Secretary of the Treasury, and section 207 requires certain minimum features on all handguns. These include minimum size requirements and safety features and that the gun must attain a minimum of points for size, weight and additional safety features. Section 301 of the Senate bill also contains reporting requirements, which only require annual reports of manufacture and sale by manufacturers.

Numerous other bills are pending in both Houses of Congress on the subject of gun control. They fall generally into these categories: Some would bar the manufacture, importation, sale, and private possession of handguns.<sup>5</sup> Some would prohibit the manufacture, importation, sale and transfer of handguns.<sup>6</sup> Others would prohibit the manufacture, importation or assembly of "Saturday night specials".<sup>7</sup> Some bills would establish a federal system of handgun owner registration, prohibit multiple handgun sales to individuals, and impose added requirements on purchasers of firearms.<sup>8</sup> Still others would require stiff mandatory prison sentences for persons committing felonies with firearms.<sup>9</sup>

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\* Although it is generally agreed that "Saturday night special" refers to a gun that is cheap and easily concealable, congressional definitions have tended to run in the direction of guns not being intended for sporting purposes.

## II. GUN CONTROL AND THE CONSTITUTION

To determine whether a federal statute restricting handguns would be constitutional, two questions must be answered: (A) Is there a constitutional right to possession of handguns which cannot be infringed by legislation, and (B) does regulation of handguns fall within the scope of any of the subjects on which Congress is empowered by the Constitution to legislate? A review of the relevant decisions demonstrates that Congress may constitutionally enact legislation restricting and prohibiting the possession of handguns by private citizens.<sup>10</sup>

### A. *Is There a Constitutional Right to Possess Handguns?*

Debates on the merits of gun control legislation are regularly punctuated by claims of a constitutional right to possess firearms. The source of these claims is the Second Amendment to the Constitution, which provides:

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

Although spirited controversy as to the meaning of the Second Amendment continues unabated among commentators,<sup>11</sup> courts over a long period of time have consistently given the amendment a very narrow construction. The Second Amendment as so interpreted places no restrictions on Congress' ability to regulate handguns.

A constitutional provision concerning the right to "bear Arms" is directed at checking power. The question is what the framers of the Constitution intended. There are basically three relationships which could have been intended to be affected: (1) the individual against the world; (2) the populace against the government, whether state or federal; and (3) the state government against the federal government. The first possibility, that the framers were concerned with the right of individuals to protect their homes and their persons from whatever depredations might confront them, appears to be without historical support.<sup>12</sup> The amendment itself speaks of the "security of a free State." The disputes have centered around the second and third possibilities.

The initial question is the proper interpretation of the term "Militia." The practice in Europe of maintaining large standing armies while prohibiting the general populace from having guns led to a preference in colonial America for the militia as the primary military force. This force would be drawn from the people and would be active only in time of military need.<sup>13</sup>

Some have argued that the militia was regarded as the populace at large—or at least those members of the populace capable of bearing arms.<sup>14</sup> To these commentators, militia meant the "unorganized militia," so that the Second Amendment must be read as permitting the populace to maintain arms as a check against excesses of any or all government. This position is sometimes characterized as more extreme than it really is. The framers of the

Constitution need not have created a "right to revolution" or a license to band together in paramilitary organizations to have established a check on the government by permitting the populace to keep and bear arms.<sup>15</sup> Whatever the merits of the "unorganized militia" analysis may be, however, it has never found judicial favor.

The federal courts have long regarded the Second Amendment as concerned only with the "organized militia" maintained by the states. In 1875, the Supreme Court ruled in *United States v. Cruickshank*<sup>16</sup> that the Second Amendment restricted Congress alone and not state governments. More recently, in *United States v. Miller*,<sup>17</sup> the Supreme Court held that Congress could regulate firearms so long as there was no evidence of a relationship between the regulation and the preservation or efficiency of the state militia. The Court said that Miller could not attack his indictment for interstate shipment of a sawed-off shotgun under the Second Amendment:

"In the absence of any evidence tending to show that possession or use of a 'shotgun having a barrel of less than eighteen inches in length' at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is not within judicial notice that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense."<sup>18</sup>

Some have argued that the *Miller* case should be read narrowly, since evidence of a military use can be shown as a matter of fact for most kinds of weapons.<sup>19</sup> However, federal courts after *Miller* have read the decision as requiring a showing that the challenged legislation actually interfered with the state militia. Under this standard, Second Amendment challenges to federal gun control legislation uniformly have been rejected.<sup>20</sup>

Further, even if the Second Amendment were to be interpreted to refer to an "unorganized militia," it would not follow that Congress would be barred from regulating the ownership of handguns. Such regulation would still be constitutional unless handguns were regarded as "Arms" within the meaning of the Second Amendment. It appears instead that the "Arms" of the militia were understood to consist of rifles and muskets.

In addition to the constitutional provisions and old state statutes quoted in *United States v. Miller*<sup>21</sup> and other secondary sources,<sup>22</sup> there are a number of early cases considering whether handguns are "Arms" within the meaning of the Second Amendment. While the decisions are not uniform, the weight of authority is that handguns do not constitute such "Arms."<sup>23</sup>

This position is most effectively expressed in *State v. Workman*,<sup>24</sup> where the Supreme Court of Appeals of West Virginia wrote:

". . . in regard to the kind of arms referred to in the amendment, it must be held to refer to the weapons of warfare to be used by the militia, such as swords, guns, rifles, and muskets,—arms to be used in defending the state and civil liberty,—and not to pistols, bowie-knives,



brass knuckles, billies, and such other weapons as are usually employed in brawls, street fights, duels, and affrays, and are only habitually carried by bullies, blackguards, and desperadoes, to the terror of the community and the injury of the state.”<sup>25</sup>

Thus, in our view, the Second Amendment poses no barrier to congressional efforts to reduce “the terror of the community and the injury of the state” by prohibiting the private possession of handguns.

### B. *Does Congress Have Power to Regulate the Manufacture, Possession and Sale of All Handguns?*

While several congressional powers could be invoked in support of gun control legislation,<sup>26</sup> justification is ordinarily found under Congress’ power to regulate interstate and foreign commerce.<sup>27</sup> There can be no serious dispute that certain kinds of gun-related activities—for example, interstate sales of firearms—can be regulated under the commerce clause. The disagreements arise over how far Congress may go in regulating local gun activity under its power to regulate matters “affecting” commerce.

In *United States v. Bass*,<sup>28</sup> the Supreme Court recently avoided a constitutional issue concerning 18 U.S.C. § 1202, which prohibits the transportation, receipt or possession of guns by felons, by holding that proof that the prohibited conduct in each case was in commerce or affected commerce was required by the statute. Prior courts of appeals decisions had differed as to whether that statute was a constitutional exercise of the commerce power without such proof.<sup>29</sup>

However, in *Perez v. United States*,<sup>30</sup> a case decided shortly before the *Bass* case, the Supreme Court had laid the groundwork for the power to create a federal criminal law under the commerce clause. The *Perez* case concerned the constitutionality of a provision in Title II of the Consumer Credit Protection Act, 18 U.S.C. §§ 891 *et seq.*, making loansharking a federal crime. In holding that *Perez* had been lawfully convicted despite the absence of proof of the effect of his conduct on commerce, the Court cited a variety of reports and statistical studies providing evidentiary support for the congressional finding that, in the aggregate, loansharking had an effect on commerce. It concluded, therefore, that Congress could prohibit the practice regardless of the extent to which the activities of each particular loan shark may have affected commerce.

An examination of *Perez* and its progeny, and of other federal criminal legislation regulating local activity, points out what may have led the Supreme Court to take a very narrow position in the *Bass* case, namely the lack of any substantial legislative findings. In *Perez*, the Court put great emphasis on the findings made by Congress of the impact of loan sharking on interstate commerce, even as a local activity, and on the very substantial evidence which was available to Congress to support those findings. In *Bass*, in contrast, there was virtually no legislative history to guide the Court in its interpretation of congressional intentions.

The implication of the limitation on Congress’ attempted exercise of



power in the *Bass* case is that if gun control legislation is supported by substantial documentation and carefully drawn congressional findings concerning the effects of the proscribed activity on interstate commerce generally, the Supreme Court would sustain the exercise of power under the commerce clause even if the activity of specific individuals were purely local in nature.

In a number of cases involving federal gun control legislation arising after *Bass*, courts have followed *Perez* to uphold the power of Congress to regulate firearms felonies without a showing in each case of a nexus with interstate commerce.<sup>31</sup> In *United States v. Nelson*,<sup>32</sup> the Fifth Circuit affirmed a conviction under 18 U.S.C. § 922(a)(6), which prohibits the making of false statements in connection with the acquisition of a firearm, in spite of a failure to show a nexus between the defendant's false statements to the gun dealer and interstate commerce. Although the individual activity was clearly local, the court found that under *Perez* the Congress does have the power to regulate an intrastate activity, an isolated instance of which may have no direct connection with interstate commerce, because that intrastate activity in the aggregate does impose a burden on interstate commerce.<sup>33</sup>

The decision in *Nelson* leaves open the question whether Congress has the power under the *Perez* theory to regulate possession of a firearm. It could be argued that the manufacture and sale of firearms presents a stronger case for federal regulation since a potential impact on interstate commerce is discernible, while possession of a firearm could be an entirely and perpetually local activity in a given instance. Such an argument ignores the aggregate effect on commerce of a substantial number of people possessing firearms. In an analogous situation, regulation of the possession of narcotics and other controlled substances under 21 U.S.C. §§ 841 and 844, and predecessor statutes, courts have upheld the regulation without a showing in each case of a nexus with interstate commerce.

In *Deyo v. United States*,<sup>34</sup> for example, the Ninth Circuit affirmed a conviction for possession and sale of a drug against the contention of the defendant that the conviction was invalid because there had been no proof of a connection between the defendant's activities and interstate commerce. The court described at length the congressional findings supporting federal control of the possession of these drugs. The court concluded that effective interstate regulation was not possible if intrastate transactions were not also regulated.<sup>35</sup>

The conclusion to be drawn from the narcotics possession cases is that if it can be shown through proper congressional findings that possession of handguns as a class of activity has an effect on interstate commerce, then individual possession could be legitimately proscribed without any showing in each case of a nexus with interstate commerce, notwithstanding that a particular weapon had never been in interstate commerce. Indeed it is the possession of handguns that can be viewed as being responsible for their manufacture, importation and sale. Thus, if undertaken after congressional findings of effect on interstate commerce based on substantial investigation, federal legislation banning the manufacture, sale and possession of handguns would in our view be authorized by the commerce clause.

### III. THE EVIDENCE IN SUPPORT OF STRICTER GUN CONTROL

#### A. *The Use and Misuse of Guns*

A proper perspective of the role of firearms in our society requires consideration of the physical nature of guns, the extent of their ownership, the nature of their legitimate uses, and the extent of their accidental or criminal misuse.

The single most significant fact concerning firearms is that they are designed to kill.<sup>36</sup> A firearm is a weapon, and whether viewed from a historical or from a functional point of view, the purpose, design and operation of a firearm is to shoot a projectile of such size and velocity so as to create substantial damage to the target.

Some uses of firearms are undoubtedly justifiable and necessary, such as military uses or police uses. In some rural areas it is possible that firearms may be necessary to obtain food or to use in self-defense.<sup>37</sup> The assertion that in a modern, urban society firearms have a legitimate use in "self-defense" is discussed later in this report. In our view, however, the principal legitimate private use of firearms in today's society is hunting for sport and target shooting.<sup>38</sup> Both of these uses are recreational.

The physical characteristics of firearms in large measure determine the uses. Thus, rifles and shotguns are more suitable for use as sporting weapons or hunting weapons because of their size, accuracy and adaptability. Since most of these weapons are approximately three feet in length, they are difficult to conceal. While handguns may be used for target shooting, or even for hunting,<sup>39</sup> the principal use of a handgun is at close range and its most obvious characteristic is that it is easily concealable.

It is estimated that there are in excess of 100 million guns presently in the hands of private owners in the United States.<sup>40</sup> At least two-thirds of these weapons are estimated to be rifles and shotguns, and the remainder are handguns.<sup>41</sup> The estimated number of handguns ranges from 25 million to over 40 million, with most current estimates adopting the larger number.<sup>42</sup> During each of the last 5 years, over 1.5 million handguns have been manufactured in the United States and over 400,000 have been imported.<sup>43</sup> The estimated number of handguns made by the assembly of imported parts is well over 700,000 per year.<sup>44</sup>

In 1973, there were 19,510 homicides in the United States. Handguns were involved in the deaths of 10,323 of these victims, or 53% of the total.<sup>45</sup> The total number of homicides involving firearms was 13,081, or 67% of all homicides.<sup>46</sup> In that year, approximately 159,000 of the approximately 252,000 armed robberies, or 63%, were committed with firearms, and approximately 108,000 out of approximately 416,000 aggravated assaults, or 26%, were committed with the use of a firearm.<sup>47</sup>

From 1966 through 1973, handgun homicide as a percent of total urban homicide increased from 37% to 53%, and firearm assaults as a percentage of total urban assaults increased from 19% to 29%.<sup>48</sup> Since 1966, the rate of handgun homicide has increased more than three times as much as the in-

crease in rate for homicide by all other means.<sup>49</sup> In 1973, nearly four times as many homicides were committed with handguns as with long guns.<sup>50</sup> In one city, about 70% of all criminal misuse of firearms involved handguns,<sup>51</sup> and in New York City, handguns may be involved in over 90% of all firearm crimes.<sup>52</sup> Handguns are involved in a substantial, and increasing, percentage of all violent crime.<sup>53</sup> In particular, robbery homicide, usually involving handguns, has increased far out of proportion to all robberies and all homicides.<sup>54</sup>

The unlawful use of firearms can be analyzed in terms of two separate areas: street crime, or crime committed by an assailant on a victim who was not previously acquainted with him; and interpersonal crime, where the assailant and the victim were previously known to each other. Most firearm homicides involve people who were previously acquainted. Heat-of-passion attacks involving spouses or acquaintances, and revenge-oriented assaults, together with accidental shootings, constitute a substantial majority of the handgun homicides.<sup>55</sup> Gun misuse in general, including accidental shootings and interpersonal crime, appear to be highest in areas where the total number of guns are highest.<sup>56</sup>

The most disruptive problem facing urban areas concerning the use of handguns is the threat of street crime, particularly armed robbery, assault and rape. There is undoubtedly not a small shop owner in the City of New York who does not live in fear of handgun robbery.<sup>57</sup> In many instances, business operations require a constant vigil against invasion. In some areas of New York City, businesses simply close at sundown, and whole areas of commerce turn into silent streets of steel fences at night. These businesses are prevented from operating by the fear of crime.<sup>58</sup> There can be little doubt that such a situation is a burden on interstate commerce.

In many areas of this city and others, many people live in constant fear of being robbed in a subway, in a park, on the sidewalk, in a building lobby, or in an elevator.<sup>59</sup> Instead of going out, people stay locked in at home, particularly at night. This, too, evidently burdens and restricts the commerce of the city. People fear to travel to the city for business or for entertainment. People move out of the city because they perceive the city as crime-ridden. Business and jobs move with them.

The statistics demonstrate that a handgun is five times as likely to result in death as a knife in connection with aggravated assaults,<sup>60</sup> and certainly it is the fear of handgun-related crimes that is a substantial contributor to our present urban decline.<sup>61</sup>

## *B. The Failure of State and Local Legislation*

State and local laws on gun control are a patchwork<sup>62</sup> of divergent regulations, unevenly enforced. While some states, such as New York, have a strict control system, many other states have little or no control. One survey of the field reports that:

"Twenty-five States require a license to sell handguns at retail, 8 require a permit (or the equivalent) to purchase a handgun, 11 require

a waiting period between purchase and delivery of a handgun, 1 requires a license to possess a handgun, 29 require a license to carry a handgun, 19 prohibit the carrying of a concealed handgun, 18 require a license to carry a handgun in a vehicle, 22 prohibit the carrying of a loaded firearm in a vehicle, and 4 States require the registration of firearms.”<sup>63</sup>

However, neither the stringency of local law, nor the vigor of its enforcement, can insure a low incidence of gun violence. New York City’s police commissioner has testified that, in spite of strict state and city laws:

“[I]n New York City between 1965 and 1970, while the number of homicides doubled, the number committed with firearms nearly quadrupled. Last year [1970] over half of the murders in New York involved the use of firearms, compared with barely one quarter of those in 1965. It is clear to me from figures like these that the increased availability of guns, notwithstanding our local controls, has had a tremendous impact on the number of murders in our city.”<sup>64</sup>

At the same time, it was estimated that there may be 500,000 illegal guns in New York City, as against 20,000 that are legally registered here.<sup>65</sup>

A recent study shows the sources of guns used in crimes committed in a number of major cities.<sup>66</sup> The figures emphasize the apparent ease with which criminals can acquire guns from out of state sources. The statistics for some of these cities are:

New York	4% from New York (South Carolina—20%; Florida—11%; Georgia—8%; Virginia—6%)
Detroit	8% from Michigan (Ohio—19%; Kentucky—9%; Georgia—9%; Mississippi—6%)
Boston	35% from Massachusetts (Florida—11%; South Carolina—7%)
Philadelphia	54% from Pennsylvania
Los Angeles	82% from California
Miami	82% from Florida
Seattle	76% from Washington
New Orleans	63% from Louisiana
Dallas	87% from Texas
Louisville	82% from Kentucky
Denver	78% from Colorado
Minneapolis	61% from Minnesota

New York<sup>67</sup>, Michigan<sup>68</sup>, Massachusetts<sup>69</sup>, and the city of Philadelphia<sup>70</sup>, require a license or permit in order to purchase a handgun. Only a few states require such a license.<sup>71</sup>



California<sup>72</sup> and Washington<sup>73</sup>, and the cities of Miami<sup>74</sup> and New Orleans<sup>75</sup> require an application for purchase of a handgun to be filed, and a waiting period before delivery.

Pennsylvania<sup>76</sup> and the city of Minneapolis<sup>77</sup> require the filing of a report of the sale of a handgun. The remaining states and cities on the above list do not have the above requirements, although most prohibit sales of handguns to minors.<sup>78</sup>

There is a striking correlation between the degree of local regulation and the amount of interstate traffic. The statistics demonstrate that where there is little or no effective regulation, firearms are mainly obtained locally, but that where there is stringent local regulation, efficient channels of commerce soon appear to make out-of-state guns available.<sup>79</sup>

In addition to the sources of guns, studies have reviewed the age of guns used in various crimes. A study done in New York City on handguns confiscated during December, 1973, showed that 58% of the guns had been manufactured or imported after the Gun Control Act of 1968, and more substantial numbers of guns were manufactured or imported in the more recent years,<sup>80</sup> as follows:

<i>Year of First Sale</i>	<i>Per Cent of Guns Confiscated</i>
1973	19%
1972	14%
1971	11%
1970	8%
1969	6%

A more general survey of 16 cities conducted in 1974 shows that 66% of the guns used in criminal activities during the surveyed period were manufactured or imported after 1968.<sup>81</sup> The same study shows that only 6% of handguns used in crimes are reported as having been stolen, which demonstrates that almost all guns used in criminal activities were purchased. Undoubtedly, many of these purchases were in violation of existing federal, state, or local laws,<sup>82</sup> which demonstrates the substantial inability of the existing scheme of regulation to control the situation.

### *C. Experience in Other Countries*

Other modern industrialized nations have renounced the private ownership of handguns or strictly required licensing or registration of handgun ownership, with beneficial effects on crime rates. While cultural differences may distort some comparisons, useful parallels can be drawn. For example, Japan has prohibited all possession of firearms since 1964 and in every year since has enjoyed a drop in the number of crimes committed with firearms.<sup>83</sup>

Similarly, stringent police investigation of all applicants for gun licenses in England appears to have tempered the nature of crime within that relatively (by contrast to the United States) low crime country. Thus, English statistics indicate that when intentional killings do occur, an Englishman is



one-third less likely than his American counterpart to resort to a gun of any sort as the murder weapon.<sup>84</sup>

Indeed, unlike the United States, each of 29 European countries recently surveyed required either a license to carry a firearm or registration of the ownership or sale of each privately owned firearm or both.<sup>85</sup> With strict national regulation of gun ownership so common elsewhere, one must question what has encouraged us to cherish that which other Western countries have almost universally renounced.

#### IV. RECOMMENDATIONS

Notwithstanding stringent local regulations and the Gun Control Act of 1968, it is an inescapable fact that violent crimes involving the use of handguns are increasing in the major urban centers at a rate at least comparable with the national increase in such crimes.<sup>86</sup> There is a substantial commerce in purchasing guns in states that do not have stringent local laws, transporting them in violation of federal law into major urban centers and selling them in violation of local law.<sup>87</sup>

It is unrealistic to look to the individual states, cities and towns for effective firearms control.<sup>88</sup> Strict controls by one state or city have been nullified by the emergence of a substantial traffic in handguns coming from jurisdictions having lax controls or none at all. Good sense and orderly government counsel that the federal government no longer abdicate handgun regulation to the states and that we take strong national action against further unnecessary crime.

As noted earlier, we strongly favor legislation prohibiting the manufacture, importation, sale and private possession of handguns, with certain limited exemptions.<sup>89</sup> Since the legislation we support would require the federal government to gather handguns now privately owned, or to develop a system for rendering such handguns inoperative, we endorse the concept of paying prior owners a bounty for all handguns and ammunition surrendered. Such payment would be desirable and also would avoid a challenge based on a taking without compensation.

We believe that further handgun legislation is so necessary that if a complete prohibition on private ownership is not possible of attainment, then we would support legislation barring all further importation, manufacture and sale of handguns, or their parts, and registration of all existing handguns limited to the life of the present owner. Under this alternative, we would propose a ban on any transfers of handguns and an escheat of handguns to the government on the death of each present owner.

In endorsing an outright prohibition on the private ownership of handguns, we believe that any partial measure merely invites a further intolerable proliferation of handguns. Thus, in our view, the focus on the so-called "Saturday night special" is counter-productive. Recent studies indicate that Saturday night specials constitute 35%-45% of the handguns used in urban crime. All revolvers with a three-inch barrel or less constitute over 70% of such guns.<sup>90</sup> The studies also demonstrate that in many areas higher priced handguns are used as extensively or more extensively than the less expensive

ones.<sup>91</sup> Consequently, to ban only Saturday night specials would simply result in other handguns, slightly more expensive and of better manufacture,<sup>92</sup> being used in place of the cheaper ones. We do not think that it would be a material advance to enlarge the calibre or improve the quality of the weapons in the hands of criminals.<sup>93</sup>

As for the proposals calling for the registration of handguns, we believe that they would create extremely cumbersome problems of enforcement, particularly with regard to private resales of guns. Moreover, registration is clearly inadequate to halt much of that class of violence which occurs between assailants and victims previously known to one another, including shootings among family members, whether intended or accidental.

With respect to the proposals placing additional requirements on prospective purchasers, an analysis of the effect of local regulation indicates to us that such proposals will not have any impact unless a mandatory duty is placed on the law enforcement agencies to act on applications and unless a purchase is not allowed to be completed until the law enforcement officials approve. Moreover, the requirement of affidavits and law enforcement checks places a substantial additional burden on local police departments and upon the FBI and will require substantial increased enforcement capabilities in the Department of the Treasury. Thus these bills likely would result in increased expenditures, additional bureaucracy, and further burdens on already over-burdened law enforcement agencies, without any effect at all on the crime rate.

As between the House bill and the Senate bill, however, our Committee prefers the approach taken by the former\*. We do not believe that "Saturday night special" legislation is desirable or helpful, while the establishment of the National Handgun Tracing Center will be a very valuable, if small, step forward. Documenting the flow of handguns in commerce is an essential step to effective regulation.

We realize that banning handguns, as we propose, will not prevent all crime. However, much of the recent substantial increase in crime rates is related to the use of handguns. In our view, banning handguns should reverse this trend and cause a reduction in overall crime rates with a specific reduction in the more serious crimes of homicide, felonious assault and robbery.

The suggestion that there is no connection between the ownership of guns and crime is, in the opinion of this Committee, contrary to the established facts. It is evident that the more guns that there are in circulation, the more opportunities there are for the criminal misuse of a gun,<sup>94</sup> and the statistics bear this out.<sup>95</sup> The data from urban centers shows that the substantial increase in private gun ownership during the 1960's bears a direct relation to the substantial increase in gun-related crimes.<sup>96</sup>

Another argument against a prohibition on the ownership of handguns is that gun control deals with the symptom of crime rather than the disease.<sup>97</sup> To an extent this is true, since gun control will not eliminate all crime. However, it is the symptom itself that is particularly in need of treatment in this instance. Opposition to gun control is often joined with a claim that the proper response is longer or mandatory prison sentences for persons convicted of firearm crimes.<sup>98</sup> Not only does this approach deal with the symptom of

\* See pages 2-3, *supra*.

crime rather than the cause, but the possibility of longer or mandatory criminal sentences affecting the gun crime rate is certainly less likely to be effective than banning the private possession of handguns.

Another argument against the prohibition involves the asserted need for firearms in self-defense. This is perhaps the most emotional of the issues raised.<sup>99</sup> We do not see that the proper response to crime in our society is to have each citizen arm himself, and in effect to encourage vigilantism. We do not believe that either a "High Noon" or a "Death Wish" philosophy is a proper social response to the threat of crime.<sup>100</sup>

The potential presence of firearms has not been effective in deterring crime. A gun kept in the home is far more likely to be used on a family member, and constitutes little or no deterrence to burglary or robbery. The ordinary citizen is likely to wind up seriously injured by provoking a shoot-out with an armed criminal.<sup>101</sup> In a shoot-out in a place of business, a store owner has a 50% chance of being killed.<sup>102</sup> Moreover, even if "self-defense" of this kind were deemed proper, there is no reason why handguns are necessary. Many police departments have settled on the shotgun as the most effective defense against a potentially lethal assault.<sup>103</sup>

The assertion that a prohibition on handguns is but a first step in the elimination of all firearms is in our opinion simply an emotional argument. There are ample bases for drawing distinctions between handguns and long guns, including the constitutional arguments, the physical characteristics of each and the actual statistics concerning criminal misuse.

In making our recommendations, we do not expect that all handguns will be eliminated overnight or that all gun-related crime will instantly cease. What we do expect is that, over a period of time, the continued depletion of the supply of handguns will cause a reduction in the amount of gun-related crime, so that we should see substantial reduction in the crime rates.

### CONCLUSION

For the reasons stated in this report, we think the time has come for Congress to legislate a ban on the private ownership of handguns.<sup>104</sup>

#### COMMITTEE ON FEDERAL LEGISLATION

JOHN D. FEERICK, *Chairman*

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HAROLD P. WEINBERGER

## FOOTNOTES

<sup>1</sup> E.g., H.R. 40, 94th Cong., 1st Sess. (1975) (Representative Jonathan B. Bingham); H.R. 9780 (Representative John Conyers, Jr.); S. 750, 94th Cong., 1st Sess. (1975) (Senator Philip A. Hart).

<sup>2</sup> P.L. 90-618 (Oct. 22, 1968), 18 U.S.C. §§ 921 et seq. (1970).

<sup>3</sup> See generally Comment, *Shooting to Kill the Handgun: Time to Martyr Another American "Hero,"* 51 J. of Urban L. 491, 510 (1974); Zimring, *Firearms and Federal Law: The Gun Control Act of 1968*, IV J. of Legal Studies 133, 191 (1975) [Hereinafter "Zimring, Firearms & Federal Law"].

<sup>4</sup> The House bill is H.R. 11193, 94th Cong., 1st Sess. (1975). The Senate bill was reported to the Judiciary Committee on December 1, 1975, but has not as yet been formally introduced or numbered. The House bill was substantially amended by the full Judiciary Committee to provide for a ban on the manufacture of handguns of less than certain specific sizes, and the revised bill has been referred back to the Subcommittee on Crime.

<sup>5</sup> See note 1 *supra*.

<sup>6</sup> E.g., H.R. 3675, 94th Cong., 1st Sess. (1975).

<sup>7</sup> E.g., H.R. 3773, H.R. 9022, H.R. 9763, 94th Cong., 1st Sess. (1975); S. 1880, S. 2153, S. 2186, 94th Cong., 1st Sess. (1975).

<sup>8</sup> See, S. 1447, S. 2153, 94th Cong., 1st Sess. (1975).

<sup>9</sup> E.g., H.R. 4310, 94th Cong., 1st Sess. (1975).

<sup>10</sup> Of course, a particular piece of legislation nevertheless may be unconstitutional. Any gun control law involving registration provisions must be drafted with care to avoid Fifth Amendment problems. For example, in *Haynes v. United States*, 390 U.S. 85 (1968), the Supreme Court held that a provision of the National Firearms Act was unconstitutional as applied to Haynes because it required him to incriminate himself. See generally "Firearms Control and the Fifth Amendment," Appendix K to Newton & Zimring, *Firearms and Violence in American Life* (National Commission on the Causes and Prevention of Violence, Staff Report, 1969). [The Newton & Zimring report is hereinafter referred to as "National Violence Commission Staff Report"].

<sup>11</sup> See, e.g., ABA Section of Criminal Justice Report Accompanying Resolution 101A, pp. 22-29 (August, 1975) [Hereinafter "ABA Section Report"]; Levin, *The Right to Bear Arms: The Development of the American Experience*, 48 Chicago-Kent L. Rev. 148 (1971) [Hereinafter "Levin"]; Hardy & Stompoly, *Of Arms and the Law*, 51 Chicago-Kent L. Rev. 62 (1974) [Hereinafter "Hardy & Stompoly"]; "The Second Amendment and the Right to Bear Arms," Appendix J to National Violence Commission Staff Report; Sprecher, *The Lost Amendment*, 51 A.B.A.J. 665 (1965); Hays, *The Right To Bear Arms, A Study In Judicial Misinterpretation*, 2 Wm. & Mary L. Rev. 381 (1960) [Hereinafter "Hays"]; Levine & Saxe, *The Second Amendment: The Right To Bear Arms*, 7 Houston L. Rev. 1 (1969).

<sup>12</sup> See, e.g., Levin at 159, 162; National Violence Commission Staff Report, Appendix J at 253-58.

<sup>13</sup> See, e.g., Levin at 151-54; National Violence Commission Staff Report, Appendix J at 253-58.

<sup>14</sup> See, e.g., 3 Story, *Commentaries on the Constitution* 746-67 (1833); Black, *The Bill of Rights*, 35 N.Y.U. L. Rev. 865, 873 (1960); Hardy & Stompoly at 70-71; Hays at 405-06.

<sup>15</sup> Cf. National Violence Commission Staff Report, Appendix J at 255.

<sup>16</sup> 92 U.S. 542 (1875). See also *Presser v. Illinois*, 116 U.S. 252 (1886); *Miller v. Texas*, 153 U.S. 535 (1894); *United States v. Karnes*, 437 F.2d 284, 287 (9th Cir.), cert. denied, 402 U.S. 1008 (1971).

<sup>17</sup> 307 U.S. 174 (1939).



18 *Id.* at 178.

19 Such arguments are criticized by the ABA Section of Criminal Justice. See ABA Section Report at 24-25.

20 See, e.g., *Cases v. United States*, 131 F.2d 916 (1st Cir. 1942), *cert. denied sub nom. Velasquez v. United States*, 319 U.S. 770 (1943); *United States v. Tot*, 131 F.2d 261 (3d Cir. 1942), *rev'd on other grounds*, 319 U.S. 463 (1943); *United States v. Adams*, 11 F. Supp. 216 (S.D. Fla. 1935). See generally ABA Section Report at 22, and the recent cases of *United States v. Powell*, 423 U.S. . . (1975); *Barrett v. United States*, 44 U.S.L.W. 4050 (1976).

21 307 U.S. 174 (1939).

22 E.g., ABA Section Report at 24, 28.

23 Those cases which hold that handguns do not come within the Second Amendment's concept of "Arms" do so on the ground that handguns are not the ordinary weapons used by the militia. See, e.g., *Moore v. Gallup*, 267 App. Div. 64, 45 N.Y.S.2d 63 (3d Dep't 1943), *aff'd mem.*, 293 N.Y. 846, 59 N.E.2d 439 (1944); *Pierce v. State*, 42 Okla. 272, 275 P. 393 (1929). But some courts have considered army or navy pistols to be weapons protected by the Second Amendment. See *Glasscock v. City of Chattanooga*, 157 Tenn. 518, 11 S.W.2d 678 (1928); *Holland v. State*, 33 Ark. 560 (1878). The minority position is that the possession of pistols of any kind may not be prohibited. See *People v. Zerillo*, 219 Mich. 635, 189 N.W. 927 (1922); *In re Brickey*, 8 Idaho 597, 70 P. 609 (1902).

24 14 S.E. 9 (1891).

25 *Id.* at 11.

26 The National Firearms Act, 26 U.S.C. §§ 5801 *et seq.*, which imposes taxes upon transfers of such weapons as machine guns and sawed-off shotguns and upon dealers in those weapons, has been upheld as a valid exercise of Congress' power to lay taxes under Article I, Section 8, clause 1. See *Sonzinsky v. United States*, 300 U.S. 506 (1937).

Title VII of the Omnibus Crime Control and Safe Streets Act, 18 U.S.C. App. §§ 1201-02, bars "in commerce or affecting commerce" the receipt, possession, or transportation of firearms by felons and certain others. This refers to Congress' power under Article I, Section 8, clause 3. The Act contains a set of four "findings" as to the effect of the activities sought to be prohibited. In addition to burden on commerce, these findings, which apparently were not based on hearings or other evidence, are that the prohibited activities are:

- a threat to the safety of the President and the Vice President;
- an impediment or a threat to the exercise of free speech and the free exercise of a religion; and
- a threat to the "continued and effective operation" of the federal and state governments.

These bases for gun control legislation have been regarded as dubious. See *United States v. Bass*, 434 F.2d 1296 (2d Cir. 1970), *aff'd on other grounds*, 404 U.S. 336 (1971). But see 61 A.B.A.J. 1081 (1975).

In addition, some kinds of gun control legislation—for example, legislation requiring a course of training in order to qualify for a license to possess a gun—might be justified under Congress' power to "provide for organizing, arming, and disciplining, the Militia." Article I, Section 8, clause 16. Although this power is qualified by the state's "Authority of training the Militia according to the discipline prescribed by Congress," it appears open to Congress to prescribe standards of training in the use of guns.

27 Article I, Section 8, clause 3.

28 404 U.S. 336 (1971).



<sup>29</sup> Compare *United States v. Synnes*, 438 F.2d 764 (8th Cir. 1971), *vacated on other grounds*, 404 U.S. 1009 (1972), holding the statute constitutional, with the Second Circuit's opinion in *Bass*, reported at 434 F.2d 1296, expressing substantial doubt as to constitutionality if proof of effect on commerce were not required.

<sup>30</sup> 402 U.S. 146 (1971).

<sup>31</sup> See, e.g., *United States v. Andrino*, 497 F.2d 1103 (9th Cir.), *cert. denied*, 419 U.S. 1048 (1974); *United States v. Garner*, 465 F.2d 265 (7th Cir. 1972); *United States v. Leberman*, 464 F.2d 68 (5th Cir.), *cert. denied*, 409 U.S. 950 (1972); *United States v. Ruisi*, 460 F.2d 153 (2d Cir.), *cert. denied*, 409 U.S. 914 (1972).

<sup>32</sup> 458 F.2d 556 (5th Cir. 1972).

<sup>33</sup> In *Huddleston v. United States*, 415 U.S. 814, 833 (1974), the Supreme Court stated without discussion that Congress did not intend to require a showing of a nexus with interstate commerce in prosecutions under 18 U.S.C. § 922(a)(6).

<sup>34</sup> 396 F.2d 595 (9th Cir. 1968).

<sup>35</sup> See also *United States v. Lopez*, 459 F.2d 949 (5th Cir.), *cert. denied sub. nom. Llerena v. United States*, 409 U.S. 878 (1972); *United States v. Cerrito*, 413 F.2d 1270 (7th Cir. 1969), *cert. denied*, 396 U.S. 1004 (1970); *United States v. Fields*, 410 F.2d 373 (9th Cir.), *cert. denied*, 396 U.S. 965 (1969); *White v. United States*, 399 F.2d 813 (8th Cir. 1968).

<sup>36</sup> See, e.g., Statement of Mr. Carey, Hearings before the Subcommittee on Crime, Committee on the Judiciary, House of Representatives, 94th Cong., 1st Sess., Vol. 2, at 488 [Hereinafter "House Firearms Hearings"]; United States Conference of Mayors, Handgun Control Project Newsletter, Vol. I, No. 3, July, 1975, at 3. See also, statement of Mr. Chalapis, House Firearms Hearings, Vol. 3, at 1136 ("Since the invention of firearms, wars have been won or lost depending upon the ability to devise, manufacture, and strategically use these weapons.").

<sup>37</sup> See, Statement of Rep. Symms, House Firearms Hearings, Vol. 1, at 99.

<sup>38</sup> See, e.g., statement of Ms. Beebe, House Firearms Hearings, Vol. 3, at 901; Comment, *Shooting to Kill the Handgun: Time to Martyr Another American "Hero,"* 51 J. of Urban L. 491, 496-99 (1974).

<sup>39</sup> See, e.g., Statement of the Wisconsin Rifle & Pistol Association, House Firearms Hearings, Vol. 2, at 608-09; Statement of Mr. Glasson, House Firearms Hearings, Vol. 3, at 1114.

<sup>40</sup> See, *Statistical Estimate on United States Gun Density*, Bureau of Alcohol Tobacco and Firearms, Department of the Treasury, printed as Appendix A to *Gun Abuse in Ohio*, Administration of Justice Committee, in House Firearms Hearings, Vol. 4, at 1641-42. [The Bureau of Alcohol, Tobacco and Firearms is hereinafter referred to as "ATF"]. See also Comment, 51 J. of Urban L. 491, 494 (1974).

<sup>41</sup> See, *Gun Abuse in Ohio*, in House Firearms Hearings, Vol. 4, at 1530.

<sup>42</sup> See, e.g., Massachusetts Council on Crime and Correction, *A Shooting Gallery Called America*, at 1 (1974) [Hereinafter "Massachusetts Council Report"]; National Advisory Commission on Criminal Justice Standards and Goals, *A National Strategy to Reduce Crime*, at 213 (1973); 1975 Congressional Quarterly 798.

<sup>43</sup> See, ATF Statistical Estimate on United States Gun Density, in House Firearms Hearings, Vol. 4, at 1641.

<sup>44</sup> See, ABA Section Report at 10-11 (Chart 1): United States Conference of Mayors, handgun control . . . issues and alternatives, at 27 (1975) [Hereinafter "Conference of Mayors Project Report"]. See generally, Statement of Mr. Davis, House Firearms Hearings, Vol. 1, at 264-68.

<sup>45</sup> Uniform Crime Reports for the United States, Federal Bureau of Investigation, Department of Justice (1974), cited in Bayh, *Fact Sheet on Firearms and Hand-*

guns, submitted to Subcommittee to Investigate Juvenile Delinquency, Committee on the Judiciary, United States Senate (May, 1975). [Hereinafter "Bayh Fact Sheet"]. There are about 25,000 gun deaths per year in the United States (12,000 homicide, 10,000 suicide, 3,000 accident), and about 200,000 firearms injuries. Statement of Rep. Fauntroy, House Firearms Hearings, Vol. 1, at 21.

46 Bayh Fact Sheet; ABA Section Report at 8.

47 Bayh Fact Sheet; ABA Section Report at 8. See also *Gun Abuse in Ohio*, in House Firearms Hearings, Vol. 4, at 1520, 1557-62.

48 Zimring, Firearms & Federal Law (*supra* note 3) at 172 (Figure 2).

49 Zimring, Firearms & Federal Law at 195; see *Gun Abuse in Ohio*, in House Firearms Hearings, Vol. 4, at 1547. From 1968 to 1973 total homicide increased 42%, robbery increased 46%, and aggravated assault increased 47%. See 121 Cong. Rec. S. 9685 (June 5, 1975) (Statement of Sen. Bayh).

50 Zimring, Firearms & Federal Law at 170; Massachusetts Council Report at 2. See also Statement of Mr. Russell, House Firearms Hearings, Vol. 2, at 768.

51 ATF Project Identification for Washington, D.C. Study, at 7-8 (1975) [Hereinafter "ATF Project I Wash. D.C."]; See also Comment, 51 J. of Urban L. 491, 495 (1974).

52 See Statement of Commissioner Murphy, Hearings before the Subcommittee to Investigate Juvenile Delinquency, Committee on the Judiciary, United States Senate, 92nd Cong., 1st Sess., at 199 (1971) [Hereinafter "Senate Handgun Hearings"].

53 Zimring, Firearms & Federal Law at 170, 194-95. See also, Statement of the North American Handgun Association, House Firearms Hearings, Vol. 2, at 809; Edwards, *Commentary: Murder & Gun Control*, 18 Wayne L.R. 1335, 1338 (1972) [Hereinafter "Edwards Commentary"].

54 See Block & Zimring, *Homicide in Chicago 1965-70*, in Senate Handgun Hearings, at 64-65; Raab, "Deliberate Slayings on Increase Here," *N.Y. Times*, Feb. 27, 1976 at 1.

55 See, e.g., Conference of Mayors Project Report at 4 (Illustration 6); Edwards Commentary at 1336; Massachusetts Council Report at 3.

56 Conference of Mayors Project Report at 1-2; Massachusetts Council Report at 2.

57 See, Statement of Mayor Lindsay, Senate Handgun Hearings, at 169, 171.

58 See, Statement of Mr. Barnes, House Firearms Hearings, Vol. 4, at 1294; Statement of Mr. Stonebraker, Senate Handgun Hearings, at 219.

59 See, Statement of Mr. Lowery, House Firearms Hearings, Vol. 3, at 1148; Statement of Mr. Compton, *Id.*, Vol. 2, at 764; Remarks of Rep. Collins, *Id.*, Vol. 2, at 486. See also Edwards Commentary at 1335.

60 Zimring, *Is Gun Control Likely to Reduce Violent Killings*, 35 U. Chi. L. Rev. 721, 722 (1968); Comment, 51 J. of Urban L. 491, 505 (1974); See, Statement of Mr. Borden, House Firearms Hearings, Vol. 3, at 969-70.

61 See, Statement of Representative Mikva, House Firearms Hearings, Vol. 1, at 8; Zimring, Firearms & Federal Law at 148.

62 Statement of Mr. Rockford, House Firearms Hearings, Vol. 1, at 131.

63 Report of the Commission on Law Enforcement and Administration of Justice, at 240 (1967), cited in National Violence Commission Staff Report, at 151-152. A more recent summary was made by the U.S. Conference of Mayors. See, Conference of Mayors Project Report at 29.

64 Statement of Commissioner Murphy, Senate Handgun Hearings, at 175.

65 Statement of Chief of Detectives Seedman, Senate Handgun Hearings, at 181. The statement was made in 1971. There may well be closer to 1,000,000 illegal guns

in New York City today. *See*, Remarks of Sen. Hruska, Senate Handgun Hearings, at 246.

66 ATF, Briefing Paper on Project "I," 16 City Consolidated Report, at 4 (1975) [Hereinafter "ATF Project I"]. *See also* Comment, 51 J. of Urban L. 491, 513 (1974).

67 New York Penal Law § 400.00.

68 Michigan Comp. Laws Title 28.

69 Massachusetts Gen. Laws Ch. 140.

70 Philadelphia Code § 10-814.

71 *See*, Conference of Mayors Project Report at 29; Massachusetts Council Report at 7.

72 California Penal Code § 12076.

73 Washington Rev. Code Title 9, § 9.41.090.

74 Miami Code § 61-2.

75 New Orleans Code § 67-11.

76 Pennsylvania Stats. Title 18, § 6111.

77 Minneapolis Code § 877.070.

78 *See generally*, Conference of Mayors Project Report at 29; ATF, Published Ordinances Firearms, 39 Fed. Reg. No. 91 (May 9, 1974).

79 *See*, Zimring, Firearms & Federal Law at 175, 184, 191.

80 *See, Id.* at 174 (Figure 3). Zimring suggests that the rate at which new guns enter the market has a special impact on the rate of handgun violence. *Id.* at 173, 196.

81 ATF Project I, at 7.

82 *See*, Statement of Mr. Davis, House Firearms Hearings, Vol. 1, at 387-89. Zimring estimates 500,000 violations of the Gun Control Act of 1968 each year. Zimring, Firearms & Federal Law at 161. The ease with which that law can be violated was set forth in the Senate hearings. *See*, Statement of Chief of Detectives Seedman, Senate Handgun Hearings, at 179-80. In one recent year 85% of all handgun homicides in Detroit were committed with unregistered guns. *See*, Statement of Mr. Walker, House Firearms Hearings, Vol. 3, at 973.

83 *See, e.g.*, National Advisory Commission of Criminal Justice Standards and Goals, A National Strategy to Reduce Crime, at 141 (1973). In 1968, the U.S. gun homicide rate was 221 times as high as Japan's. Since then our rate has nearly doubled. *See*, Massachusetts Council Report at 5.

84 *See*, National Violence Commission Staff Report at 125; Edwards Commentary at 1337; Statement of Messrs. Burden & Dill, House Firearms Hearings, Vol. 3, at 975.

85 *See*, National Violence Commission Staff Report at 119; Conference of Mayors Project Report at 21-22. The firearms homicide rates in other countries are generally 5% to 10% of the rate in the U.S., and the number of gun deaths per year in the U.S. exceeds the total for all other free nations. *See*, Massachusetts Council Report at 6.

86 *See*, Zimring, Firearms & Federal Law at 176-81, and Figures 4-9. The increase in handgun homicide as a percentage of all homicide in urban areas is substantially larger than the increase nationally. *See, Id.* at 179-181, and Figure 8.

87 Statement of Mr. Davis, House Firearms Hearings, Vol. 1, at 301.

88 For example, firearm homicide rates continue to increase in jurisdictions that enact controls. *See* Hardy & Stompoly, *supra* note 11, at 82-87.

89 We support, of course, exemptions for the possession of handguns by police, the military, and private licensed guards. A further exception to permit bona fide collectors to own non-functioning guns would also be consistent with the spirit of our recommendations.

<sup>90</sup> ATF Project I, at 7; ATF Project I Wash. D.C., at 7. Saturday night specials are defined as costing under \$50.00, having less than a 3" barrel, and being .32 calibre or less.

<sup>91</sup> ATF Project I, at 6-7. *See also*, Conference of Mayors Project Report at 13.

<sup>92</sup> *See*, Statement of Mr. Walker, House Firearms Hearings, Vol. 3, at 966.

<sup>93</sup> A .38 calibre revolver may be twice as deadly as a .22. *See*, *Gun Abuse in Ohio*, in House Firearms Hearings, Vol. 4, at 1525, 1621.

<sup>94</sup> *See*, Edwards Commentary at 1341.

<sup>95</sup> For example, the Southern states have the highest rate of gun ownership, the highest percentage of homicide by gun, and the highest accident rate by gun causing death. *See*, Conference of Mayors Project Report at 1, II, 2; Massachusetts Council Report at 8. The presence of a gun in the home leads to more accidental or intra-family shootings. *See, e.g.*, 1975 Cong. Quarterly 798.

<sup>96</sup> *See*, Statement of Dr. Pasternack, House Firearms Hearings, Vol. 1, at 213; Edwards Commentary at 1341.

<sup>97</sup> *See*, Statement of Mr. Washington, House Firearms Hearings, Vol. 3, at 931.

<sup>98</sup> *E.g.*, Statement of Sen. McClure, House Firearms Hearings, Vol. 1, at 92-93; Statement of Mr. Schrank, *Id.*, Vol. 2, at 775; 1975 Cong. Quarterly 799.

<sup>99</sup> *See, e.g.*, Statement of Mr. Glassen, House Firearms Hearings, Vol. 3, at 1113 ("Taking firearms from responsible people gives further license to the criminal element to maim, rob, and rape the American Public.")

<sup>100</sup> *See*, Cawelti, *Myths of Violence in American Popular Culture*, in House Firearms Hearings, Vol. 2, at 838-842.

<sup>101</sup> *See*, Massachusetts Council Report at 10; Edwards Commentary at 1336-37; Comment 51 J. of Urban L. 491, 497-98 (1974). *See generally*, Conference of Mayors Project Report at 6-8.

<sup>102</sup> *See*, Statement of Dr. Wilt, House Firearms Hearings, Vol. 3, at 1023; *Gun Abuse in Ohio*, in House Firearms Hearings, Vol. 4, at 1521, 1568-69.

<sup>103</sup> *See*, *Attica*, The Official Report of the New York State Special Commission on Attica, at 354, 365 (1972).

<sup>104</sup> One member of the Committee, while strongly supporting in principle the total ban on possession of handguns, believes that such legislation is not likely to be enacted, and would create great problems in enforcement. *See generally*, the discussion between Mr. Lowey and Representative Conyers, House Firearms Hearings, Vol. 3, at 1151-53. This member supports a ban on manufacture or importation, with a bounty for voluntary surrender, but without an attempt to confiscate all existing handguns. This is essentially the position taken by Representative Mikva in H.R. 3675.



## RESOLUTIONS

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AMERICAN BAR ASSOCIATION,  
*June 2, 1975.*

HON. BIRCH BAYH,  
*Chairman, Subcommittee on  
Juvenile Delinquency,  
Committee on the Judiciary,  
U.S. Senate,  
Washington, D.C.*

DEAR MR. CHAIRMAN: I am pleased, as President of the American Bar Association, to respond to your request for the views of the American Bar Association on firearms control legislation. The American Bar Association supports the enactment of appropriate state and federal legislation to promote effective control of importation, sale, transportation, and possession of firearms.

In 1965 the ABA urged the Congress to amend the federal Firearms Act to prohibit the shipment of firearms in interstate commerce, except between federally licensed manufacturers, dealers, and importers. This amendment was made a part of the Gun Control Act of 1968. Subsequent to the enactment of the Gun Control Act of 1968, the Association, in 1973, reaffirmed its policy supporting effective firearms controls.

Enclosed are copies of the American Bar Association's firearms control resolutions of 1965 and of 1973, which constitute the full text of the official position of the Association. Copies of the accompanying reports, upon which our House of Delegates based its actions, are also enclosed for the record.

A further, detailed report with recommendations, supporting strong firearms control measures, will be brought before the House of Delegates at its forthcoming 1975 Annual Meeting, August 11-14. We shall advise you of the action taken on these recommendations.

Sincerely,

JAMES D. FELLERS,  
*President.*

Enclosures.

### AMERICAN BAR ASSOCIATION SECTION OF CRIMINAL LAW

#### RECOMMENDATION

The Section of Criminal Law recommends adoption of the following:

*Resolved*, That the American Bar Association reaffirms the position it took in 1965 recommending, in principle, the enactment of appropriate state and federal legislation providing effective control of the importation, sale, transportation and possession of firearms; and be it further

*Resolved*, That the President or his designee be authorized to present the views of the American Bar Association to the appropriate committees of Congress.

#### REPORT

The above recommendation is submitted to the American Bar Association's House of Delegates with the unanimous approval of the Council of the Section of Criminal Law which acted for the Section on December 7, 1972. The purpose of this proposal is to update the Association's long-standing and prudent practice of endorsing legislation aimed at reducing gun-related crime in America.

In a report to the House of Delegates during the 1965 Annual Meeting, the chairman of the Criminal Law Section, Major General Kenneth Hodson, wrote that, "for a number of years, the Section of Criminal Law has considered



that the loose and ineffective controls on the sale of firearms, particularly handguns, has been a contributing factor to the increasing crime rate." The report's recommendation that the Association support passage of S. 1592, a bill aimed principally at controlling the interstate commerce in firearms, was overwhelmingly adopted by the House of Delegates by a vote of 184 to 26. Due to congressional inaction on that bill, the House of Delegates reiterated its support for the firearms control bill in a second resolution adopted during the 1966 Annual Meeting. The Association's 1965 resolution specifically indicated support for federal legislation which would "(1) prohibit the shipment of firearms in interstate commerce except between federally licensed manufacturers, dealers and importers; (2) prohibit sales by federally licensed dealers of shotguns and rifles to persons under 18 years of age; (3) prohibit sales by federally licensed dealers of all other types of firearms to persons under 21 years of age; (4) prohibit felons, fugitives and persons under indictment of felonies from shipping or receiving firearms in interstate commerce; (5) control commerce in large caliber weapons; (6) restrict the sale of handguns to residents of the state where purchased; and (7) limit the unrestricted volume of imported weapons."

Although S. 1592 was not enacted, Congress did pass the 1968 Gun Control Act (P.L. 90-618, 82 Stat. 1213) and the 1968 Omnibus Crime Control and Safe Streets Act (P.L. 90-351, 197). Together, these two laws accomplish most of the goals urged by this Association in 1965. However, the long-range effect of these laws has proven both ineffective and faulty.

One of the major goals of this Association's 1965 resolution was to stop the massive importation of foreign-made, easily concealed and usually poorly constructed handguns which, because of their low-cost availability and small size, are used in a large percentage of armed crimes of violence. Thus, the 1968 Act had the positive effect of substantially reducing the importation of foreign-made handguns "not suitable for sporting purposes." For the first six months of 1968, foreign-made handguns were being imported at an annual rate of 1,239,930. In 1970, the total number of imported handguns had dropped to 279,536 (*Cong. Rec.*, Aug. 7, 1972, S. 12926). However, an unforeseen loophole in the Act quickly became apparent as domestic manufacturers skirted the restriction on handgun importation by importing handgun *parts* instead.

In contrast to the above figures of imported handguns, the Internal Revenue Service reports that, in the first eleven months of 1971, domestic manufacturers produced 1,447,664 handguns for private sale. (*Cong. Rec.* July 20, 1972, S. 11341)

During the past two years of the 92nd Congress, some sixty-eight "gun control" bills were introduced. Although none was passed, those bills which generated the most interest—one of which passed the Senate—were aimed primarily at closing the loophole of the 1968 Act by applying the same standards to domestically produced handguns as have applied for the past four years to foreign-made handguns. The hearings and debates which accompanied these bills brought to light some startling statistics and facts.

The 1971 Uniform Crime Reports, compiled by the FBI, indicates that 51% of the estimated 17,630 murders committed in 1971 were accomplished with a handgun. Including rifle and shotgun murders, the percentage rises to 65%. The FBI notes that, "the significant fact emerges that most murders are committed by relatives of the victim or persons acquainted with the victim. It follows, therefore, that criminal homicide is, to a major extent, a national social problem beyond police prevention". (U.C.R., p. 9) This statement is substantiated by the appalling fact that over seven of every ten murders occur either within the family unit or were the result of romantic triangle and lover's quarrels and other arguments. The remaining murders resulted from suspected and known felonious activity such as robberies and sex crimes. These figures suggest an ironic and distressing conclusion, for it appears that since the majority of murders are committed with a handgun in the heat of anger or disagreement, with the antagonists at least known to each other, if not related, and considering the National Commission on Causes and Prevention of Violence's estimates that half of this nation's 60 million households are armed, the resulting conclusion is that an individual is more likely to die by handgun fire simply by possessing such a weapon for self-defense. In fact, this point was substantiated in Senate testimony (*Cong. Rec.*, Aug. 7, 1972, S. 12928); the mere presence of a firearm in a home subjects the owner to a four times greater risk of death or injury by gunfire than if that same person faced a burglar, rapist or kidnapper unarmed.

An additional misconception is highlighted by the fact that the estimated 30 million armed households frequently provide the most available source of criminal's weapons. It is indeed ironic that the very weapons owned for purposes of self-protection against housebreakers usually end up to be the weapon a housebreaker uses to ply his trade. Though complete figures of the number of stolen weapons used criminally are impossible to compile, law enforcement officials generally agree that most illicit weapons were stolen from households and businesses.

On June 26, 1972, my predecessor, Justice William H. Erickson of the Colorado Supreme Court, wrote the Chairman of the House Judiciary Committee who was then presiding over hearings on a number of handgun control bills. Noting that, "neither the Section of Criminal Law nor the House of Delegates of the American Bar Association has studied these bills", Justice Erickson wrote that, "I have no authority to address myself to these specific pieces of legislation. . . . However, as spokesman for our Section, I am most eager to express the previously established support and encouragement of the American Bar Association, in principle, for legislation aimed at reducing crime through control of the sale, registration and possession of firearms".

Because the Association's 1965 resolution had been officially deleted as obsolete, Justice Erickson requested the former Director of the Federal Bureau of Prisons and past chairman of this Section, James V. Bennett, to head a special committee to study the current relationship between firearms abuse and the soaring crime rate. Justice Erickson felt that it is "increasingly important that the Section of Criminal Law take prompt action in recommending an up-to-date position on [firearms regulations] which might become the subject of a report with a recommended position for adoption by the House of Delegates so that the American Bar Association will not be found wanting."

This report and recommendation is in partial fulfillment of that request.

During the past five months, Mr. Bennett's committee has begun a study of the history of federal and state attempts to reduce gun-related crime and violence, the various procedures by which such crime might be reduced and how the legitimate interests of sportsmen can be protected. That committee has recommended two ways by which the previously established commitment of this Association to the principle of reducing gun-related crimes would be enhanced. The first suggestion is embodied in the attached recommendation: that the Association update its seven-year-old policy statement as an indication of its continuing concern for the soaring crime rate. The second suggestion, not a part of the attached recommendation, is simply that continued effort be focused on procedures by which state, local and the federal government might cooperate to reduce gun-related crime, violence and delinquency.

This Section is persuaded that the beginning of a new Congress is an ideal time for the Association to reiterate its past support for attempts to reduce gun-related crime. However, this Section feels that the immense difficulties encountered in studying any type of proposed firearms regulations require caution and extreme objectivity. Thus, this recommendation would allow the Association to become involved in current debate without being limited to supporting a particular proposal. The attached recommendation is based on the premise that the federal legislation enacted since the American Bar Association's last official statement, over seven years ago, dictates a present need to reiterate our concern. Such a statement as the attached recommendation does not bind the Association to support a specific bill but, rather, states a firm conviction that the organized legal community will continue to serve in its traditional role of advisor to Congress and leader in its concern for law enforcement and criminal justice.

Because of the interest of other segments of this Association, copies of this report have been distributed to the National Conference of Commissioners on Uniform State Laws, the Division of Judicial Administration, the National District Attorney's Association, National Association of Attorneys' General, the Committee on State Legislation, the Section of Family Law, the Section of Local Government Law, the Section of Individual Rights and Responsibilities, the Department of Justice, the Law Student Division, the Young Lawyer's Section and National Association of Criminal Defense Lawyers.

Respectfully submitted,

KEITH MOSSMAN, *Chairman.*

February, 1973.

## REPORT OF THE SECTION OF CRIMINAL LAW

## RECOMMENDATION

*Resolved*, That the American Bar Association urges the Congress of the United States to enact S. 1592, 89th Congress, or similar legislation which would amend the Federal Firearms Act to prohibit the shipment of firearms in interstate commerce except between federally licensed manufacturers, dealers and importers; to prohibit sales by federally licensed dealers of shotguns and rifles to persons under 18 years of age, and of all other types of firearms to persons under 21 years of age; to prohibit felons, fugitives and persons under indictment of felonies from shipping or receiving firearms in interstate commerce, and to control commerce in large caliber weapons; to restrict the sale of handguns to residents of the state where purchased; and to limit the unrestricted volume of imported weapons. Be it further

*Resolved*, That the Section of Criminal Law be authorized to present the views of the American Bar Association to the appropriate committees of Congress on such proposed legislation.

## REPORT

Federal action directed at the control of firearms originated, for modern purposes of criminal control, in the National Firearms Act of June 26, 1934, which is now set out in Sections 5801-62 of the Internal Revenue Code of 1954. This Act, passed in reaction to the gang wars of the Prohibition Era and the post-Prohibition crime waves, was directed at preventing criminals from obtaining firearms, such as machine guns, cane guns, sawed-off shotguns, silencers and similar weapons, which are particularly suitable for criminal use. The Act provides for special licensing taxes on importers, manufacturers, dealers and pawnbrokers dealing in such arms, imposes heavy transfer taxes on the transfer of such arms, requires the registration of such arms upon transfer and the registration of persons possessing such arms. Although written as a revenue measure, it was clearly intended to control the criminal commerce in firearms of a criminal character and provided penalties of up to five years' imprisonment.

The Federal Firearms Act of June 30, 1938, 15 U.S.C. §§901-09, was designed to suppress crime by regulating the traffic in firearms and ammunition, and applied to all firearms. Its legislative history shows particular concern with "roaming racketeers and predatory criminals who know no state lines—a situation beyond the power of control by local authorities to such an extent as to constitute a national menace." *United States v. Platt*, 31 F. Supp. 788, 790 (S.D. Tex. 1940); see *Hearings on H.R. 9066 Before House Committee on Ways and Means*, 73d Cong., 2d Sess. (1934). The Act requires a dealer to obtain a federal dealer's license by filing an application with the Internal Revenue Service and paying a fee of one dollar. However, because of the simplicity of this requirement and of the other record-keeping required by the law, this Act has been called a "mailorder operation" in itself. *Hearings Before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary*, 88th Cong., 1st Sess., pt. 14, at 3209 (1963).

The assassination of President John F. Kennedy on November 22, 1963, with a rifle reported to have been purchased by the accused assassin through the mails, brought public and congressional scrutiny to bear on the availability of firearms in the United States through mail orders and other uncontrolled channels of distribution. However, consideration of this problem had preceded that tragic event; concern with juvenile crime in which the use of "mail-order" weapons was an increasing factor led to hearings by the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary during early 1963, and legislation directed at the types of weapons used by juvenile criminals was introduced in August, 1963 by Chairman Dodd and other members of the subcommittee. The assassination brought the introduction of numerous other bills, the expansion of the Dodd bill, and greater concern about this problem.

S. 1975, 88th Cong., 1st Sess., was introduced on August 2, 1963, by Senator Dodd for himself and other members of the Juvenile Delinquency Subcommittee, but this proposal was not enacted. Other legislation proposing varying techniques for controlling the interstate shipment of firearms was introduced



in the House of Representatives and in the Senate. In addition, resolutions were introduced in the House of Representatives authorizing an investigation of the sale of firearms in interstate and foreign commerce.

On March 22, 1965, Senator Dodd introduced S. 1592, a bill to amend the Federal Firearms Act. Basically, the proposed legislation is designed to accomplish the following:

*First:* It would prohibit the shipment of firearms in interstate commerce, except between federally licensed manufacturers, dealers, and importers. This provision would have the effect of prohibiting the so-called mail-order traffic in firearms to unlicensed persons. It would leave to each state the responsibility and authority for controlling the sale and disposition of firearms within its borders. There are several important exceptions to this general prohibition against interstate shipment. Sportsmen could continue to take their shotguns or rifles across state lines. Pistols could be carried in interstate commerce but only for a lawful purpose and only in conformity with state laws. Further, firearms could be shipped to a licensee for service and return to the sender. However, a nonlicensee could no longer buy weapons from out-of-state mail-order dealers. Sales would be made by retail dealers and would thus be subject to record-keeping requirements. These records would then have new meaning; they would not be rendered futile by an unrecorded flow of mail-order guns.

*Second:* Licensed retail dealers would be required to limit sales of handguns to residents of their state who are 21 years of age or older; they would be prohibited from selling any firearm to a person under the age of 18. In accordance with regulations to be prescribed by the Secretary of the Treasury, licensed dealers would be required to ascertain the identity and place of residence of a purchaser. Further, it would be unlawful for a dealer to sell a firearm to any person when he knows or has reasonable cause to believe that such person is under indictment for or has been convicted of a felony, or is a fugitive from justice. These provisions of the proposed legislation do not address themselves to the question of permits to possess or to use firearms, leaving it to the states and local communities to decide what they need and want in that regard. Thus, for example, while the bill limits the sale of shotguns and rifles to persons who are at least 18 years of age, it does not preclude such persons from using guns if such use is permitted by state or local law.

*Third:* The bill would raise the annual license fees for a dealer from the present token of \$1.00 to \$100. It would also establish a license fee of \$250 for a pawnbroker who deals in firearms. Specific standards are established under which an application for a license shall be disapproved, after notice and opportunity for a hearing. The purpose of this provision of the proposed legislation is to limit the issuance of licenses to bona fide dealers. Under existing law, anyone other than a felon can, upon the mere allegation that he is a dealer and the payment of a fee of \$1.00, demand and obtain a license. According to the Secretary of the Treasury, some 50 or 60 thousand people have done this, some of them merely to put themselves in a position to obtain personal guns at wholesale. There would be nothing to prevent them from obtaining licenses in order to ship or receive concealable weapons through the mails, or to circumvent state or local requirements.

*Fourth:* The bill would permit the Secretary of the Treasury to curb the flow into the United States of surplus military weapons and other firearms not suitable for sporting purposes. However, weapons imported for science, research, or military training, or as antiques and curios, could be allowed.

*Fifth:* The importation and interstate shipment of large caliber weapons, such as bazookas and antitank guns, and other destructive devices would be brought under effective federal control.

The Subcommittee to Investigate Juvenile Delinquency of the Senate Judiciary Committee has been holding hearings on S. 1592, commencing shortly after the introduction of this legislation. The testimony of witnesses appearing before the subcommittee has generally favored enactment of the legislation, particularly the testimony of witnesses who are concerned with any facet of law enforcement. The principal objections to the legislation seemed to stem from the National Rifle Association and its members. The position of the NRA was commented upon by Attorney General Katzenbach in a statement to the subcommittee on May 19, 1965, excerpts of which appear below:

"\* \* \*

"This measure is not intended to curtail the ownership of guns among those legally entitled to own them. It is not intended to deprive people of guns used either for sport or for self-protection. It is not intended to force regulation on unwilling states.

"The purpose of this measure is simple: it is, merely, to help the states protect themselves against the unchecked flood of mail-order weapons to residents whose purposes might not be responsible, or even lawful. S. 1592 would provide such assistance to the extent that the states and the people of the states want it.

"\* \* \*

"There is demonstrable need for regulation of the interstate mailorder sale of guns. This bill is a response to that need. It was carefully drafted; it is receiving detailed attention from this Subcommittee.

"But, nevertheless, S. 1592 now has itself become a target—for the verbal fire of the National Rifle Association and others who represent hunters and sporting shooters. These opponents feel their views most deeply, as is evident from the bitterness and volume of their opposition. It is no secret to any member of Congress that the NRA sent out a mailing of 700,000 letters to its membership urging a barrage of mail to Senators and Congressmen.

"There is no question that the views of the NRA should be heard and given full weight. There is no question that so many people with an interest in gun legislation should have every opportunity to express it. But those views also need to be evaluated and thus I would like now to turn to analysis of the opposition arguments.

"It has been suggested, for example, by Franklin Orth, executive vice president of the NRA, that S. 1592 gives the Secretary of the Treasury 'unlimited power to surround all sales of guns by dealers with arbitrary and burdensome regulations and restrictions.'

"I fear this is an exaggeration flowing from the heat of opposition. The Secretary's regulations must be reasonable. I should think that the reasonableness of the regulations promulgated by the Secretary of the Treasury under the existing provisions of the Federal Firearms Act would contradict the assumption of 'burdensome regulations.'

"Further, the Administrative Procedure Act assures all interested parties of an opportunity to be heard before the issuance of substantive rules and regulations. The NRA and other gun interests have, in the past, taken full advantage of this opportunity and clearly could do so in the future. And still further, the regulations are subject to review and reversal by the courts and by Congress should they be felt arbitrary and capricious.

"It has also been suggested that S. 1592 requires anyone engaged in the manufacture of ammunition to pay \$1,000 for a manufacturer's license. The bill does not do so. It does not cover shotgun ammunition at all, and the license fee for manufacturers of other types of ammunition is \$500.

"It is true that anyone selling rifle ammunition, even .22 caliber, would be compelled to have a \$100 dealer license. Why shouldn't he? He is dealing ammunition for a lethal weapon. The many dealers in ammunition who also sell firearms would not, however, be required to pay an additional ammunition fee. Nor is there anything in the legislation that would, as has been stated, require a club engaged in reloading for its members to obtain a manufacturer's license.

"A further specific objection raised against this measure is that it would forbid a dealer to sell to a non-resident of his state. The objection is stated in a misleading way. The bill does forbid such sales of handguns, but it specifically excepts weapons like rifles and shotguns most commonly used by sportsmen and least commonly used by criminals.

"A similar objection is made on the grounds that the measure would prohibit all mail-order sales of firearms to individuals. While this is an accurate description of the measure with respect to interstate and foreign commerce, the bill would not foreclose now allowable shipments within a state. Any control of such commerce is left to the states.

"One last comment on the specific NRA objections, as expressed in the letter sent to its membership. The letter described this measure as one which conceivably could lead to the elimination of 'the private ownership of all guns.' I am compelled to say that this is *not* conceivable. I am compelled to say that there is only one word which can serve in reply to such a fear—preposterous.



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"More generally, I really cannot understand why the legislation we are talking about should seem a threat at all to sportsmen, hunters, farmers and others who have a productive or necessary or enjoyable interest in the use of rifles, shotguns or sporting hand guns. Nothing that we propose here could intelligently be construed as impairing the enjoyment they derive from shooting.

"This legislation would, indeed, make some changes in the distribution of firearms. It would, indeed, by outlawing mail-order sales of firearms between states, bring about changes in the commercial firearms world. It would, indeed, challenge interests which have thrived on the present state of unregulated chaos. But such a challenge is tragically overdue.

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"Which is more significant, the right not to be slightly inconvenienced in the purchase of a firearm, or the right not to be terrorized, robbed, wounded, or killed?

"As the chief law enforcement officer of the United States, I come before you today to ask you to supply the only conceivable answer to that question. I come, with all the urgency at my command, to ask the Subcommittee to report this measure favorably and to ask the Congress to enact it without delay."

Two further objections have been made to the proposed legislation. The first that it is unconstitutional, and the second is that, even if enacted, the criminal will still get guns by the simple process of stealing them or buying them from a "gun bootlegger."

With respect to the constitutional issue, both the Secretary of the Treasury and the Attorney General of the United States have affirmed that the bill was carefully drafted to insure its constitutionality. It is the view of the Section of Criminal Law that there is no merit to an objection to the legislation on constitutional grounds. The vast body of authority under the Commerce Clause supports federal control of the distribution of firearms by means of interstate commerce. Further, it seems clear that the right to bear arms protected by the Second Amendment relates only to the maintenance of the militia; that Amendment does not prevent the reasonable regulation of interstate commerce in firearms in the interest of public safety. It should be noted that the legislation does not apply to agencies and departments of Federal, State, and local governments.

With respect to the second objection, viz., that, even if the legislation is enacted, it will not prevent the criminal from obtaining a gun, the statement made by the Secretary of the Treasury to the subcommittee is illuminating. Excerpts follow:

"Mr. Chairman, I am happy to appear before your Committee in association with my colleague, the Attorney General, and other representatives of the Administration in support of S. 1592 to amend the Federal Firearms Act, because I feel that enactment of this piece of legislation is of great importance to the welfare of this country and its citizens.

"S. 1592 is designed to implement the recommendations which the President set forth with respect to firearms control in his message to the Congress of March 8, 1965, relating to law enforcement and the administration of justice.

"The President, in that message, described crime as 'a malignant enemy in America's midst' of such extent and seriousness that the problem is now one 'of great national concern.' The President also stated, and I quote from his message, 'The time has come *now*, to check that growth, to contain its spread, and to reduce its toll of lives and property.'

"As an integral part of the war against the spread of lawlessness, the President urged the enactment of more effective firearms control legislation, and cited as a significant factor in the rise of violent crime in the United States 'the ease with which any person can acquire firearms.'

"The President recognized the necessity for state and local action, as well as federal action, in this area and he urged 'the governors of our states and mayors and other local public officials to review their existing legislation in this critical field with a view to keeping lethal weapons out of the wrong hands.' However, the President also clearly recognized in his message that effective State and local regulation of firearms is not feasible unless we strengthen at the federal level controls over the importation of firearms and over the interstate shipment of firearms. The President advised that he was

proposing draft legislation to accomplish these aims, and stated, and I quote, 'I recommend this legislation to the Congress as a sensible use of federal authority to assist local authorities in coping with an undeniable menace to law and order and to the lives of innocent people.'

"Anyone who reads the papers today or hears the news on radio and television cannot help but be appalled at the extent of crime and lawlessness in this country and at the extent of the loss of lives through the use of weapons in the hands not only of criminals but also juveniles, the mentally sick and other irresponsible people. Every day the lives of decent American citizens, our greatest national asset, are being snuffed out through the misuse and abuse of firearms by persons who should not have access to them.

"\* \* \* \*

"What the bill does is to institute federal controls in areas where the federal government can and should operate, and where the state governments cannot, the areas of interstate and foreign commerce. Under our federal constitutional system, the responsibility for maintaining public health and safety is left to the state governments under their police powers. Basically, it is the province of the state governments to determine the conditions under which their citizens may acquire and use firearms. I certainly hope that in those states where there is not now adequate regulation of the acquisition of firearms, steps will soon be taken to institute controls complementing the steps taken in this bill in order to deal effectively with this serious menace.

"Since a bureau of my Department is responsible for the administration of the Firearms Act, I am particularly anxious that the changes proposed in the bill with respect to the issuance of licenses to manufacture, import and deal in firearms be adopted. Under existing law, anyone other than a felon can, upon the mere allegation that he is a dealer and payment of a fee of \$1.00, demand and obtain a license. Some 50 or 60 thousand people have done this, some of them merely to put themselves in a position to obtain personal guns at wholesale. The situation is wide open for the obtaining of licenses by irresponsible elements, thus facilitating the acquisition of these weapons by criminals and other undesirables. The bill before you, by increasing license fees and imposing standards for obtaining licenses, will go a long way toward rectifying this situation.

"One misconception about this bill which has been widely publicized is that it will make it possible for the federal government to institute such regulations and restrictions as will create great difficulties for law-abiding citizens in acquiring, owning or using firearms for sporting purposes. This is absolutely not so. Sportsmen will continue to be able to obtain rifles and shotguns from licensed dealers and manufacturers subject only to the requirements of their respective state laws. Indeed, they can travel to another state and purchase a rifle or shotgun from a licensed dealer there and bring it home with them without interference. Only two minor inconveniences may occur for the sportsmen of this country. They will not be able to travel to another state and purchase a pistol or concealable weapon, and they will not be able to obtain a direct shipment from another state of any type of firearm. On this latter point, the inconvenience is more apparent than real because the large mail order houses have outlets in most of the states and the bill will permit mail order shipments to individual citizens from these outlets.

"These minor inconveniences have been found to be necessary in order to make it possible for the states to regulate effectively the acquisition and possession of firearms. Obviously, state authorities cannot control the acquisition and possession of firearms if they have no way of knowing or ascertaining what firearms are coming in to their states through the mails or, in the case of concealable weapons, by personally being carried across state lines.

"\* \* \* \*

"Today, the people of the United States are living under the most ideal conditions which have ever existed for any peoples anywhere on earth. Yet much of this is threatened by the spreading cancer of crime and juvenile delinquency. It is absolutely essential that steps such as those proposed in this bill be taken to bring under control one of the main elements in the spread of this cancer, the indiscriminate acquisition of weapons of destruction. In concluding my statement, may I say that the Department's experience with the existing Federal Firearms Act has resulted in a feeling of frustration since the controls provided by it are so obviously inadequate in the ways that I have indicated. In drafting S. 1592 we have had in mind these inadequacies and now have,

we believe, a bill, which, when enacted, will provide effective controls without jeopardizing or interfering with the freedom of law-abiding citizens to own firearms for legitimate purposes. I strongly support the enactment of S. 1592."

For a number of years, the Section of Criminal Law has considered that the loose and ineffective controls on the sale of firearms, particularly handguns, has been a contributing factor to the increasing crime rate. At the Midyear Meeting of the American Bar Association in February, 1964, the Section recommended to the House of Delegates that action should be taken by the Association "to draft a uniform state firearms statute and appropriate federal legislation." During the Annual Meeting in August, 1964, the Section presented a program on the subject, "The What, When and Why of Gun Legislation." Distinguished speakers, including a law enforcement officer, a judge, a private citizen, and representatives of the National Rifle Association explored the subject in depth and detail. Although no formal action of the Section followed this panel program, it was clear that the sentiment of the large majority of the members attending the session favored more effective firearms controls.

In summary, in determining whether the American Bar Association should support the enactment of S. 1592, or similar federal legislation, the following specific questions and answers should be considered:

*First:* Does the relatively free interstate traffic in firearms contribute materially to the increasing crime rate in the United States? *Answer:* The available evidence indicates clearly that a considerable number of crimes are committed by persons who have been able to acquire firearms easily, particularly handguns.

*Second:* Is it within the constitutional power of the federal government to establish controls on the interstate movement of firearms? *Answer:* No lengthy legal brief is necessary to show that the federal government under the Commerce Clause is empowered to establish reasonable controls upon the interstate movement of firearms.

*Third:* If the states and local governments enacted stringent controls on the purchase, possession, and use of firearms, would it be necessary or desirable for the federal government to legislate in this area? *Answer:* Although stringent state and local control of firearms would assist materially in reducing the possession and use of firearms for unlawful purposes, state and local controls cannot be effective unless the federal government prevents the relatively free and unimpeded flow of firearms into the several states through the channels of interstate commerce.

*Fourth:* Are the controls contained in S. 1592 reasonable? *Answer:* Few persons will interpose reasonable objections to the purpose or to the major provisions of S. 1592. Reasonable men might differ as to the necessity for certain of the specific provisions. For example, it can be argued that the provisions which preclude a licensed retail dealer from selling rifles and shotguns to persons under the age of 18, or from selling handguns to persons under the age of 21, are an unwarranted usurpation of the power of the states and local governments to decide who may possess and use firearms. However, almost everyone would agree that these restrictions are reasonable if firearms are to be kept out of the hands of irresponsible juveniles. Further, it is clear that the control of such sales, even though local in nature, can best be established by federal insistence, through licensing procedures, that dealers adhere to fixed standards in all of the states. Otherwise, it would be difficult to prevent a juvenile from purchasing a firearm in a state where the sale is permitted, and carrying it to a state where such a sale is prohibited.

The Council of the Section of Criminal Law is of the opinion that S. 1592 represents a reasonable and desirable step forward in law enforcement. Although this legislation will cause minor inconvenience to the lawabiding citizen who desires to buy a gun, it will not prevent him from acquiring one. This minor inconvenience is the price that must be paid if the federal government is to do its part to assist the states in maintaining effective control over firearms.

For the above reasons, the Section of Criminal Law, acting through its Council in accordance with Section 6, Article VI, of its By-Laws, recommends that the American Bar Association support the enactment of S. 1592, or similar federal legislation.

Respectfully submitted,

KENNETH J. HODSON,  
Chairman.



AMERICAN BAR ASSOCIATION,  
Chicago, Ill., September 5, 1975.

HON. BIRCH BAYH,  
*Chairman, Subcommittee on Juvenile Delinquency,*  
*Committee on the Judiciary,*  
*U.S. Senate,*  
*Washington, D.C.*

DEAR MR. CHAIRMAN: At the meeting of the House of Delegates of the American Bar Association held August 11-13, 1975 the attached resolution was adopted upon recommendation of the Section of Criminal Justice.

This resolution is being transmitted for your information and whatever action you may deem appropriate. If hearings are scheduled on the subject of this resolution, we would appreciate your advising Herbert E. Hoffman, Director of the American Bar Association Governmental Relations Office, 1800 M Street, N.W., Washington, D.C. 20036 (202) 331-2210.

Please do not hesitate to let us know if you need any further information or have any questions, or whether we can be of any assistance.

Sincerely yours,

HERBERT D. SLEDD,  
*Secretary.*

Attachments.

AMERICAN BAR ASSOCIATION—HOUSE OF DELEGATES, SECTION OF  
CRIMINAL JUSTICE

RESOLUTION 101A, AUGUST, 1975

I. *Resolved*, That the American Bar Association, recognizing the alarming increase in serious and violent crimes committed by those in possession of hand-guns, and recognizing inadequacies of existing federal and state legislation concerning firearms, and having considered the established policy of this Association which supports "the enactment of appropriate state and federal legislation providing effective control of the importation, sale, transportation and possession of firearms," reaffirms said policy and recommends these immediate actions, which are consistent with such policy, as minimum steps to more fully implement the Gun Control Act of 1968 (P.L. 90-618, 82 Stat. 1213) and to give effect to the mandate of the existing policy of the American Bar Association.

A. *Resolved*, That the American Bar Association recommends that the Gun Control Act of 1968 be amended so as to cure demonstrated, legal deficiencies, specifically,

1. That Section 922(a) (1) of the Act, making it unlawful for any person, except a licensed dealer, licensed manufacturer, or licensed importer to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, be amended to provide that.

"It shall be unlawful for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, their parts or components . . ."

2. That Section 921 (4) of the Act, which defines a "destructive device" as not including any device not likely to be used as a weapon or which the owner intends to use solely for sporting purposes, be amended to define the term "sporting purposes" as, "The term, 'firearm for sporting purposes' any rifle, shotgun, long gun, or handgun appropriate for the purposes of hunting, trap shooting, target shooting, or organized competition shooting, meeting prescribed specifications, including barrel length, weight, type sight, type of grip, caliber, safety mechanism, and other factors as prescribed by the Secretary of Treasury."

3. That Section 923 of the Act, providing for the licensing of dealers, manufacturers and importers, be amended to upgrade the standards of eligibility for licensing of dealers, importers and manufacturers specified within Section 923 (a), and be further amended to make the conferral of such licenses, pursuant to Section 923(c) and (d) a discretionary rather than a mandatory action, by amending these subsections to read,

"(c) Upon the filing of a proper application fee, and payment of the prescribed fee, and upon completion of reasonable investigation made to determine that the applicant is not an individual, as provided by Section 922(b) (1),

922(g) and (h) of this Act, for whom it is unlawful to ship, transport, receive or possess a firearm, the Secretary may issue to a qualified applicant the appropriate license . . .”

“(d) Any application submitted under subsection (a) or (b) of this section may be approved if—”

4. That Section 922(c) of the Act, providing for the execution of a sworn statement, by the transferee of a firearm, to the effect that the transferee is not an individual, within the meaning of the Act, for whom it is unlawful to possess a firearm, be amended to include a procedure, such as a waiting period between purchase and transfer of possession during which time the transferor shall report the transfer of the firearm and the identity of the transferee, to the Bureau of Alcohol, Tobacco, and Firearms.

5. That Section 922 of the Act, specifying unlawful acts, be amended to include the provisions of Section 842(j) and (k) of the Organized Crime Control Act of 1970 (P.L. 91-452, 84 Stat. 922) and that Section 923 of the Gun Control Act, concerning licensing, be amended to include the provisions of Section 843(b) (4) of the Organized Crime Control Act; the effect of both proposed amendments being to require dealers, manufacturers, transporters, and importers of firearms, ammunition, their parts or components, to provide adequate and secure storage facilities for firearms, or ammunition within their possession, in order to reduce the incidence of theft of firearms and ammunition, and also to report any losses or thefts of such items, within their possession, to the Bureau of Alcohol, Tobacco, and Firearms.

6. That, insofar as the language of the Act has been construed in *U.S. v. Bass* 404 U.S. 336 (1971), contrary to the intent of the Congress, to require, after the effective date of said Act, a nexus of a transaction in interstate commerce, with proof of venue, in order for the receipt or possession of a firearm by a convicted felon to be a violation of the Act, that Section 1202 of the Act, providing “receives, possesses, or transports in commerce or affecting commerce,” be amended to change the jurisdictional basis for prohibition of possession of a firearm, under the present statute, from reliance upon transport in interstate commerce to (1) constituting a burden on commerce, and (2) a threat to the effective enforcement of the Federal criminal laws, including those laws designed to protect the safety of the President.

**B. Resolved,** That the American Bar Association recommends that the Gun Control Act of 1968 be further strengthened by more effective implementation of existing firearms controls, specifically,

1. That the Judiciary be encouraged to impose severe penalties, to the extent consistent with the American Bar Association Standards for the Administration of Criminal Justice, for the possession or use of a firearm or facsimile in the commission of a crime, as provided for by Section 924(c) of the Act.

2. That the Congress and the Executive Branch, through the President, be urged to provide adequate appropriation and manpower resources to the Bureau of Alcohol, Tobacco and Firearms, and to other Federal law enforcement officials, both prosecutive and investigative, for the purpose of enforcing the Act.

3. That periodic review be made of the eligibility of the possessors of handguns, consistent with the safeguards of due process.

**II. Resolved,** That the American Bar Association, recognizing the crisis created by the increase in serious and violent crimes committed by those in possession of handguns, recommends that additional legislation be enacted, specifically,

**A. Resolved,** That the American Bar Association, urges that Federal investigators and prosecutors should be directed wherever feasible, to assign a high priority and major importance to alleged firearms offenses, particularly those which are repeated offenses committed by previously convicted felons. To that end, the American Bar Association supports the objectives of the current Career Criminal Program, sponsored by the U.S. Department of Justice, designed to target such offenses and criminals for rapid prosecution through the criminal justice system.

**B. Resolved,** That the American Bar Association urges effective cooperation among federal, state, and local law enforcement agencies in investigating and prosecuting firearms offenses, and accordingly supports the objectives of the U.S. Department of Justice's Federal-State Law Enforcement Committees, which are now being established in each federal judicial district to foster such cooperation.



III. *Be it further Resolved*, That the President of the Association or his designee be authorized to communicate the positions taken on these recommendations to the appropriate individuals or entities, including, where warranted, testimony before committees of the Congress.

AMERICAN BAR ASSOCIATION, REPORT TO THE HOUSE OF DELEGATES,  
SECTION OF CRIMINAL JUSTICE

RECOMMENDATION

The Section of Criminal Justice recommends adoption of the following recommendations:

I. *Resolved*, That the American Bar Association, recognizing the alarming increase in serious and violent crimes committed by those in possession of handguns, and recognizing inadequacies of existing federal and state legislation concerning firearms, and having considered the established policy of this Association which supports "the enactment of appropriate state and federal legislation providing effective control of the importation, sale, transportation and possession of firearms," reaffirms said policy and recommends these immediate actions, which are consistent with such policy, as minimum steps to more fully implement the Gun Control Act of 1968 (P.L. 90-618, 82 Stat. 1213) and to give effect to the mandate of the existing policy of the American Bar Association:

A. *Resolved*, That the American Bar Association recommends that the Gun Control Act of 1968 be amended so as to cure demonstrated legal deficiencies, specifically,

1. That Section 922(a) (1) of the Act, making it unlawful for any person, except a licensed dealer, licensed manufacturer, or licensed importer to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, be amended to provide that,

"It shall be unlawful for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, their parts or components . . ."

2. That Section 921(4) of the Act, which defines a "destructive device" as not including any device not likely to be used as a weapon or which the owner intends to use solely for sporting purposes, be amended to define the term "sporting purposes" as,

"The term, 'firearms for sporting purposes' any rifle, shotgun, long gun, or handgun appropriate for the purposes of hunting, trap shooting, target shooting, or organized competition shooting, meeting prescribed specifications, including barrel length, weight, type of sight, type of grip, caliber, safety mechanisms, and other factors as prescribed by the Secretary of the Treasury."

3. That Section 923 of the Act, providing for the licensing of dealers, manufacturers and importers, be amended to upgrade the standards of eligibility for licensing of dealers, importers and manufacturers specified within Section 923(a), and be further amended to make the conferral of such licenses, pursuant to Section 923(c) and (d) a discretionary rather than a mandatory action, by amending these subsections to read,

"(c) Upon the filing of a proper application fee, and payment of the prescribed fee, and upon completion of reasonable investigation made to determine that the applicant is not an individual, as provided by Section 922(b) (1), 922(g) and (h) of this Act, for whom it is unlawful to ship, transport, receive or possess a firearm, the Secretary may issue to a qualified applicant the appropriate license. . . ."

"(d) (1) Any application submitted under subsection (a) or (b) of this section may be approved if—"

4. That Section 922(c) of the Act, providing for the execution of a sworn statement, by the transferee of a firearm, to the effect that the transferee is not an individual, within the meaning of the Act, for whom it is unlawful to possess a firearm, be amended to include a procedure, such as a waiting period between purchase and transfer of possession during which time the transferor shall report the transfer of the firearm and the identity of the transferee, to the Bureau of Alcohol, Tobacco, and Firearms.

5. That Section 922 of the Act, specifying unlawful acts, be amended to include the provisions of Section 842(j) and (k) of the Organized Crime Control

Act of 1970 (P.L. 91-452, 84 Stat. (922) and that Section 923 of the Gun Control Act, concerning licensing, be amended to include the provisions of Section 843(b) (4) of the Organized Crime Control Act; the effect of both proposed amendments being to require dealers, manufacturers, transporters, and importers of firearms, ammunition, their parts or components, to provide adequate and secure storage facilities for firearms, or ammunition within their possession, in order to reduce the incidence of theft of firearms and ammunition, and also to report any losses or thefts of such items, within their possession, to the Bureau of Alcohol, Tobacco, and Firearms.

6. That, insofar as the language of the Act has been construed in *U.S. v. Bass* 404 U.S. 336 (1971), contrary to the intent of the Congress, to require after the effective date of said Act, a nexus of a transaction in interstate commerce, with proof of venue, in order for the receipt or possession of a firearm by a convicted felon to be a violation of the Act, that Section 1202 of the Act, providing "receives, possesses, or transports in commerce or affecting commerce," be amended to change the jurisdictional basis for prohibition of possession of a firearm, under the present statute, from reliance upon transport in interstate commerce to (1) constituting a burden on commerce, and (2) a threat to the effective enforcement of the Federal criminal laws, including those laws designed to protect the safety of the President.

B. *Resolved*, That the American Bar Association recommends that the Gun Control Act of 1968 be further strengthened by more effective implementation of existing firearms controls, specifically,

1. That the Judiciary be encouraged to impose severe penalties, to the extent consistent with the American Bar Association Standards for the Administration of Criminal Justice, for the possession or use of a firearm or facsimile in the commission of a crime, as provided for by Section 924(c) of the Act.

2. That the Congress and the Executive Branch, through the President, be urged to provide adequate appropriation and manpower resources to the Bureau of Alcohol, Tobacco and Firearms, and to other Federal law enforcement officials, both prosecutive and investigative, for the purpose of enforcing the Act.

3. That periodic review be made of the eligibility of the possessors of handguns, consistent with the safeguards of due process.

II. *Resolved*, That the American Bar Association, recognizing the crisis created by the increase in serious and violent crimes committed by those in possession of handguns, recommends that additional legislation be enacted, specifically,

A. *Resolved*, That the American Bar Association, urges that Federal investigators and prosecutors should be directed wherever feasible, to assign a high priority and major importance to alleged firearms offenses, particularly those which are repeated offenses committed by previously convicted felons. To that end, the American Bar Association supports the objectives of the current Career Criminal Program, sponsored by the U.S. Department of Justice, designed to target such offenses and criminals for rapid prosecution through the criminal justice system.

B. *Resolved*, That the American Bar Association urges effective cooperation among federal, state, and local law enforcement agencies in investigating and prosecuting firearms offenses, and accordingly supports the objectives of the U.S. Department of Justice's Federal-State Law Enforcement Committees, which are now being established in each federal judicial district to foster such cooperation.

III. *Be it further Resolved*, That the President of the Association or his designee be authorized to communicate the positions taken on these recommendations to the appropriate individuals or entities, including, where warranted, testimony before committees of the Congress.

#### REPORT

#### I. *Background: Need for restatement of American Bar Association views concerning firearms control*

At its May, 1975 meeting, the Criminal Justice Section's governing Council adopted the above Recommendations presented by a Section Ad Hoc Committee on Gun Control, which was appointed by the Council at the midyear meeting of February, 1975. This Committee was charged with looking at the previously-

adopted ABA policy, to study gun control bills pending in the 94th Congress, and to submit findings and recommendations to the Council with a view to determining more effective steps to counteract the reported increase in gun-related crime and the proliferation of national concern over the apparent lack of adequate gun-control.

The Committee, in its deliberations, received expert advice provided by David Muchow, representing the U.S. Department of Justice task force on firearms control, Marvin Dessler, Chief Counsel Designate, and Warren McConnell, both representing the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (the agency which is responsible for the enforcement of the Gun Control Act of 1968). In addition, the Section's governing Council, in considering committee report, heard from Mr. James Valentino, President of the Illinois State Rifle Association, Acting Chief James O'Grady of the Chicago Police Department, Jonathan Rose of the U.S. Department of Justice and former Section Chairman James V. Bennett, Chairman of the National Council for a Responsible Firearms Policy. (Mr. Bennett, as a member of the Section's Ad Hoc Committee, disclosed his interest as Chairman of the National Council for a Responsible Firearms Policy at both the Committee meeting and the Section Council meetings.)

The American Bar Association has thrice approved resolutions relating to the control of firearms. In 1965, and again in 1966, the Association urged the Congress of the United States: "to enact S. 1592, 89th Congress, or similar legislation which would amend the Federal Firearms Act to prohibit the shipment of firearms in interstate commerce except between federally licensed manufacturers, dealers and importers; to prohibit sales by federally licensed dealers of shotguns and rifles to persons under 18 years of age, and of all other types of firearms to persons under 21 years of age; to prohibit felons, fugitives and persons under indictment of felonies from shipping or receiving firearms in interstate commerce, and to control commerce in large caliber weapons; to restrict the sale of handguns to residents of the state where purchased; and to limit the unrestricted volume of imported weapons," a bill virtually identical to the Gun Control Act of 1968 (P.L. 90-618, 82 Stat. 1213).

Although enactment of the above cited Act, and of the Omnibus Crime Control Act of 1968 (P.L. 90-351), accomplished most of the goals urged by the Association in 1965, the American Bar Association, in 1973, reaffirmed the principle of effective control of the importation, sale, transportation, and possession of firearms:

*Resolved*, That the American Bar Association reaffirms the position it took in 1965 recommending, in principle, the enactment of appropriate state and federal legislation providing effective control of the importation, sale, transportation and possession of firearms; . . .

The 1973 resolution was predicated upon "a firm conviction that the organized legal community will continue to serve in its traditional role of advisor to Congress and leader in its concern for law enforcement and criminal justice." This conviction was stated within the report accompanying the resolution of 1973 (107c, page). There can be little doubt that the current social climate of the United States, with an escalating rate of crime and increasing incidence of violence, requires that the organized bar again serve in its traditional role of spearheading concern for law enforcement and criminal justice, particularly with respect to the question of firearms control.

*First*, the problems which necessitated the Gun Control Act of 1968, and which gave rise to the Association's recommendations of 1965 and 1966 remain with us today. These problems were summarized, by the Congress, in the findings of Section 901 of the Gun Control Act—

(1) there is a widespread traffic in firearms moving in or otherwise affecting interstate or foreign commerce, and that existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercises of their police power; and

(2) the ease with which any person, including criminals, juveniles without the knowledge or consent of their parents or guardians, narcotics addicts, mental defectives, the emotionally disturbed, armed groups who would supplant the functions of duly constituted public authorities, can acquire the possession of handguns, is a significant factor in the prevalence of lawlessness and violent crime in the United States; and



(3) only through adequate Federal control over interstate and foreign commerce in these weapons, and over all persons engaging in the businesses of importing, manufacturing or dealing in them, can this grave problem be dealt with, and effective state and local regulation of this traffic be made possible; and

(5) the sale or other disposition of *concealable weapons* by importers, manufacturers, and dealers holding Federal licenses, to nonresidents of the state in which the licensee's place of business are located, has tended to make ineffective the laws, regulations and ordinances in the several states and local jurisdictions regarding such firearms; and

(6) there is a causal relationship between the easy availability of handguns and juvenile or youthful criminal behaviour, and that such firearms have been widely sold by federally licensed importers and dealers to emotionally immature or thrill-bent juveniles and persons who engage in criminal behaviour; and

(9) the existing licensing system under the Federal firearms and gun control acts does not provide adequate licensing or proper standards for the granting or denial of licenses, in that there is no provision for screening for eligibility of purchaser of handguns, and in that there is no provision for regulation of sales between unlicensed dealers, and in that this has led to licenses and to handguns being issued to persons not reasonably entitled thereto, thus distorting the purposes of the licensing system;

The factual foundation for these findings has been amply chronicled by no less than six national commissioners, including, most recently, the National Advisory Commission on Criminal Justice Standards and Goals (1973) and the Commission on Reform of the Federal Criminal Code (1971).

These same findings of fact remain as valid today, as when they were stated as justification for the Gun Control Act of 1968 and as part of the report accompanying the 1973 resolution by this Association. Only the supportive statistics have changed . . . upwards:

Homicides:	
1971	17,630
1973	19,510
Homicide by firearm, percent:	
1971	65
1973	67
Homicide by handgun, percent:	
1971	51
1973	53
Peace officers killed:	
1971	121
1973	127
1974 (1st quarter)	29
1975 (1st quarter)	32
By firearm, percent:	
1971	93
1973	95
1st quarter, percent:	
1975	100
By handgun, percent:	
1971	71
1973	73
1st quarter, percent:	
1975	84.5
Armed robbery:	
1971	385,910
1973	382,670
Armed with firearm, percent:	
1971	63
1973	65
Aggravated assault:	
1971	364,600
1973	416,270
Assault with firearm, percent:	
1971	25.1
1973	25.7

<sup>1</sup> 1973 report cited 1971 Uniform Crime Report Statistics.

*Second*, the control of firearms, particularly of handguns, is a terribly difficult problem that generates deeply emotional response. The debate on firearms control has, historically been long on rhetoric and short on research and reason. Thus, in a speech before the Law Enforcement Executives Narcotics Conference on April 6, 1975, Attorney General Edward H. Levi called for the advice and participation, of all sectors of our society, in good faith discussion on the subject of handgun control, noting that: "The test of our government may lie in its ability to open thoughtful discussion on issues marked by deep emotional division."

This same test is true of the organized legal profession, particularly in the light of the profession's traditional role as a spokesman and leader in the field of criminal justice.

*Third*, there has been increased Congressional interest in the subject of firearms control, and in the effectiveness of the 1968 Gun Control Act. Sixty-eight gun bills were submitted to the 92nd Congress, over 100 to the 93rd Congress, and by March 31, 1975, some 76 gun bills had been submitted to the 94th Congress. Congressional hearings by the House of Representatives, Judiciary Committee, Subcommittee on Crime, began on February 18, 1975 and are continuing, both in Washington, D.C. and in other major cities throughout the nation. The Senate Judiciary Committee, Subcommittee to Investigate Juvenile Delinquency is considering handgun control during current deliberations concerning violence in the schools. Additional Congressional consideration is likely in the context of oversight hearings regarding the implementation of the Omnibus Crime Control Act of 1968, and Senate Government Operations Committee review of the Bureau of Alcohol, Tobacco & Firearms. Further, gun control measures are being considered by at least 14 state legislatures.

The Section's Ad Hoc Committee believes that neither the Congress nor the American Bar Association should be content to merely plug loopholes in existing legislation, although such action is included among the recommendations as emergency-type measures. Instead, the Committee, took note of a suggestion within the Report which accompanied the American Bar Association resolution of 1973. The suggestion, which was not a part of the recommendation, was that "*continued effort be focused on procedures by which state, local and the federal government might cooperate to reduce gun-related crime, violence, and delinquency.*" (emphasis added). Thus, while the Committee recognized the resolution of 1973 as constituting a succinct statement of the American Bar Association's policy on firearms control, the Committee was of the opinion that the 1973 position would provide insufficient guidance to the Congress in its deliberations.

Similarly, the majority of the Council viewed the question of firearms control as being of such importance, that the Section of Criminal Justice, as well as the whole of the organized legal profession, should assume a proactive rather than a reactive posture. For this reason, the Section has not attempted to endorse any particular piece or type of legislation. Rather, the Section has concentrated on articulating minimum standards, and procedures for the effective strengthening and implementation of existing legislation.

## II. Analysis and detail in support of resolutions

### *Resolution A: Amendment and Enforcement of the Gun Control Act of 1968*

Among the many pieces of legislation being considered by the 94th Congress are at least four bills (H.R. 465, H.R. 1970, H.R. 2360, and H.R. 3326) which would repeal the Gun Control Act of 1968, and at least two bills are currently being prepared which would remove responsibility for administration and enforcement of the Act, from the Department of Treasury (Bureau of Alcohol, Tobacco, and Firearms) to the Department of Justice. These bills are premised upon the belief that, in view of increasing crime and violence and the problems which the Section of Criminal Justice has noted in this Report, the Gun Control Act has either been a failure or inadequately implemented.

The Section of Criminal Justice, in general, was of the opinion that there would be an insufficient basis for further gun control legislation, if experience under the current Act demonstrated that existing gun control laws were not being adequately enforced. The Section's Committee questioned at length the representatives of the Bureau of Alcohol, Tobacco and Firearms, and the De-



partment of Justice. The Committee learned of a number of difficulties that have been encountered in carrying out the Gun Control Act, and has directed some of its Recommendations to correcting these.

1. *Component parts.*—Section 922(a) of the Act makes it unlawful for any person except a licensed importer, licensed manufacturer, or licensed dealer to engage in dealing in firearms or ammunition. This has dramatically reduced the availability of imported firearms, particularly handguns, from 1.5 million handguns imported in 1968 to 408,000 imported in 1974. However, the omission of imported firearms components, from 922(a) has led to a marked increase in importation of parts, which, when assembled in the United States has resulted in a sharp increase in domestically produced firearms, from 1.1 million in 1968 to 1.89 million in 1974. (See Chart No. 1: Handguns—Foreign & Domestic.) Therefore the Section recommends extending the prohibition of Section 922(a) to component parts.

2. *Definition of sporting purpose.*—Section 921(4) prohibits importation of firearms unless there is a showing "to the satisfaction of the Secretary" that such imports are "generally recognized as particularly suitable for or readily adaptable to sporting purposes." No such restriction is imposed on firearms of domestic manufacture. So-called "Saturday Night Special" legislation is directed at restricting inexpensive, easily concealed, domestically-made handguns which cannot be effectively used for a sporting purpose, but the term "sporting purpose" is not defined within the Act. For the purpose of determining which imported weapons are readily suitable for sporting purposes, the Department of the Treasury has developed a complex and technical set of Factoring Criteria. (See Chart No. 2: Factoring Criteria for Weapons.) The Section recommends extending such criteria to domestic firearms by defining "sporting purpose" and by extending the applicability of that definition to domestic handguns.

3. *Dealer eligibility standards.*—The Section's Committee learned that of the 150,000 dealers licensed annually, including renewals, only 35,000 are legitimate commercial dealers. The Section recommends that dealer eligibility requirements be upgraded to limit the trade in firearms by "straw man" dealers. For the same reason, the Section recommends that issuance of licenses be discretionary rather than mandatory.

4. *Licensing of possessors of handguns.*—Licensing provisions under the Gun Control Act extend only to dealers, importers and manufacturers of firearms. Although it is unlawful, under the Act, for an importer, manufacturer or dealer to sell or deliver a firearm to a juvenile, a convicted felon or fugitive from justice, there is no effective means for the dealer to verify the character of the person who seeks to purchase the firearm. A survey of handgun sales by licensed dealers, conducted in Greenville, South Carolina, demonstrates the need for such verification. (See Chart No. 3: Greenville Project.) Therefore, the Section of Criminal Justice recommends several minimum standards for acquisition and possession of handguns.

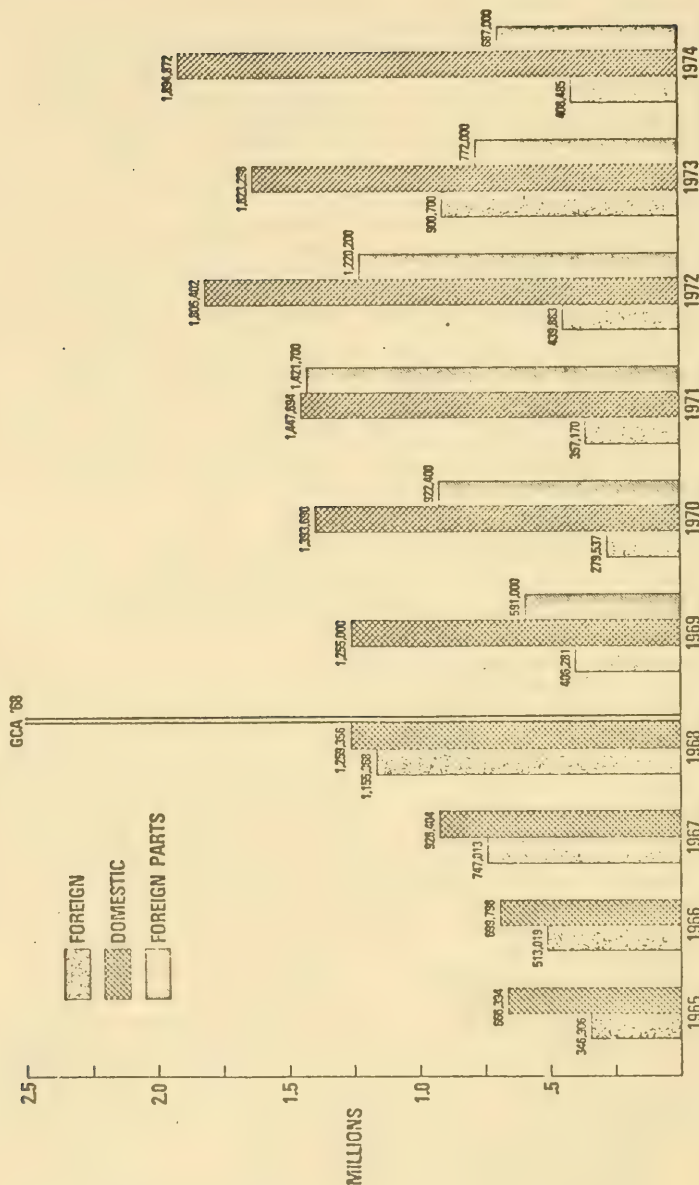
The Section of Criminal Justice further recognizes that implementation of such standards would require appropriate resources within the Bureau of Alcohol, Tobacco, and Firearms, and has accordingly recommended that such be provided. (p. 17, *infra*.)

5. *Security of stored firearms.*—The Committee learned that there has been a marked increase in the number of firearms stolen from dealers and importers. (See Chart No. 4: Interstate Firearms Theft Project.) Illegally obtained weapons undoubtedly contribute to the easy accessibility of handguns in our society. The Section recommends that the current authority of the Bureau of Alcohol, Tobacco and Firearms, under the Explosive Substances Magazine and Control Act (Title XI of the Organized Crime Control Act of 1970) be specified within the Gun Control Act in order to implement secure storage practices directed to reducing such thefts.

6. *U.S. vs. Bass., supra.*—This decision overturned the conviction, for possession of firearms in violation of the Gun Control Act of 1968, of a previously convicted felon who had obtained firearms (pistol and shotgun). The Supreme Court read the Act narrowly, reading the phrase "in commerce or affecting commerce" in Section 922 as being an element of the offense: "For example, a person 'possesses . . . in commerce or affecting commerce' if at the time of the offense the gun was moving interstate . . ." (at 350), and that the Government must prove nexus between the offense of transportation, possession, or receipt, and interstate commerce.

Chart No. 1

## HANDGUNS - FOREIGN &amp; DOMESTIC



Prepared by U.S. Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms, (1975)

important part on our streets in the way of gun crises in the Washington Post—"the simply a corpse. It is a fresh corpse day. All have to go before the country decide. Is long? Does there first have to be a Treasury decision is made against more money, but the undeclared gun war on the American lives. The disarmament part of the citizens of the United States."

7 with you and any other member of this part of deaths caused by American civil. If of this committee resulting in effective

EDWARD M. KENNEDY.

to put in the record matters that explanation of some of the subjects. you Post, the contents of a press conference to many things, part of which also the form which is presently before Treasury entitled "Factoring Criteria

asked raised the point, which I think ask if we had this data that is being weapons, we would have some battery as to what is being considered using his discretion.

marked, "Exhibit Nos. 5 and 6,"

at No. 5

Post, June 5, 1971)

AND GUN CONTROLS

of General John Mitchell at the White

administration feels about federal gun

and you asked, if you will look at the Treasury Department which is the having control of that program, you sounds on the subject matter. It is their

where the administration stood and in that field is in the Treasury Department, testified before the Congress as is.

gun control?

the same as it has been when I testified. Legislation which was most recently the will of the Congress on the subject. I felt out to determine whether or not it does not in particular areas, well knew itself to the subject matter.

what my position is.

decision which was enacted by the will and we should give that legislation and determine whether or not it is

you just three year's time enough? Don't you know and can't you tell us what think in light of these recent killings?

The Attorney General: You are confusing two different subject matters. You only talking about gun control.

The Attorney General: As I have said, the gun control legislation which the Attorney General is the representation of the will of Congress and until we have a further period of time of working under that legislation, we will not know whether we need new legislation or legislation of a different type.

you don't see a need for different legislation?

The Attorney General: Not at this particular time.

Exhibit No. 6

Internal Revenue Service

## Factoring Criteria for Weapons.

Note:  
The Internal Revenue Service reserves the right to prescribe the right to provide information of any revolver or pistol which exceeds an apparent qualifying score but does not adhere to the provisions of section 595(b)(1) of Amended Chapter 44, Title 18, U.S.C.

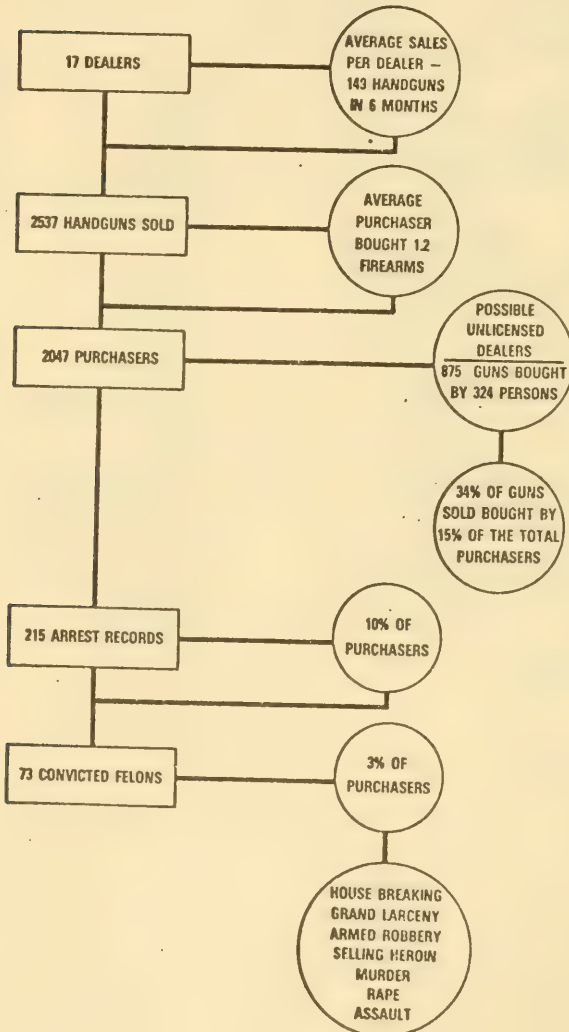
Pistol model	Sub-total (points)
Individual characteristics and factor allowance	
Barrel length (in inches "1" over 6" (1 value)	
Frame construction	
Investment cast or forged steel (15 value)	
Investment cast or forged HTS alloy (20 value)	
Weapon weight w/magazine (unloaded)	
Per ounce (1 value)	
Caliber	
21 short and .25 auto (1 value)	
22 (1 and 7.65mm to .350 auto (1 value)	
3mm paracolum and over (10 value)	
Safety features	
Loaded breech mechanism (5 value)	
Loaded chamber indicator (5 value)	
Drop safety (3 value)	
Magazine safety (5 value)	
Firing pin block or lock (10 value)	
Miscellaneous equipment	
Target hammer (2 value)	
Double action (10 value)	
2 1/4" adjustable target sight (5 value)	
2 1/4" adjustable target sight (10 value)	
Target grips (5 value)	
Target trigger (2 value)	
Prerequisites:	
1) The pistol must have a positive manually operated safety device	
2) The component length and height must be in excess of 10" with the front sight angle measurement to the muzzle (without magazine or extension) being at least 4" and the length being at least 6"	
Score achieved	
Qualifying score is 75 points	

Revolver model	Sub-total (points)
Individual characteristics and factor allowance	
Barrel length (muzzle to cylinder face) (less than 4" (0 value)	
For each "1" over 4" (1/2 value)	
Frame construction	
Investment cast or forged steel (15 value)	
Investment cast or forged HTS alloy (20 value)	
Weapon weight (unloaded)	
Per ounce (1 value)	
Caliber	
22 short to .25 ACP (3 value)	
22 LR and 32 to 39 S&W (3 value)	
.38 special (4 value)	
.357 mag and over (5 value)	
Miscellaneous equipment	
Adjustable target sights (drift or click) (5 value)	
Target grips (5 value)	
Target hammer and trigger finger (5 value)	
Prerequisites:	
1) Must pass safety test	
2) Must have overall frame (with conventional grips) length (not diagonal) of 4 1/4" minimum.	
3) Must have a barrel length of at least 3".	
Safety test:	
A Double Action Revolver must have a safety feature which automatically (or in a Single Action Revolver by manual operation) causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge. The safety device must withstand the impact of a weight equal to the weight of the revolver dropping from a distance of 36" in a line parallel to the barrel upon the rear of the hammer spur, a total of 5 times.	
Score achieved	
Qualifying score is 45 points	

Form 4396 (11-71)

# GREENVILLE PROJECT

(SURVEY OF HANDGUN SALES BY LICENSED DEALERS IN GREENVILLE, S.C. (5/1/74 - 10/31/74))

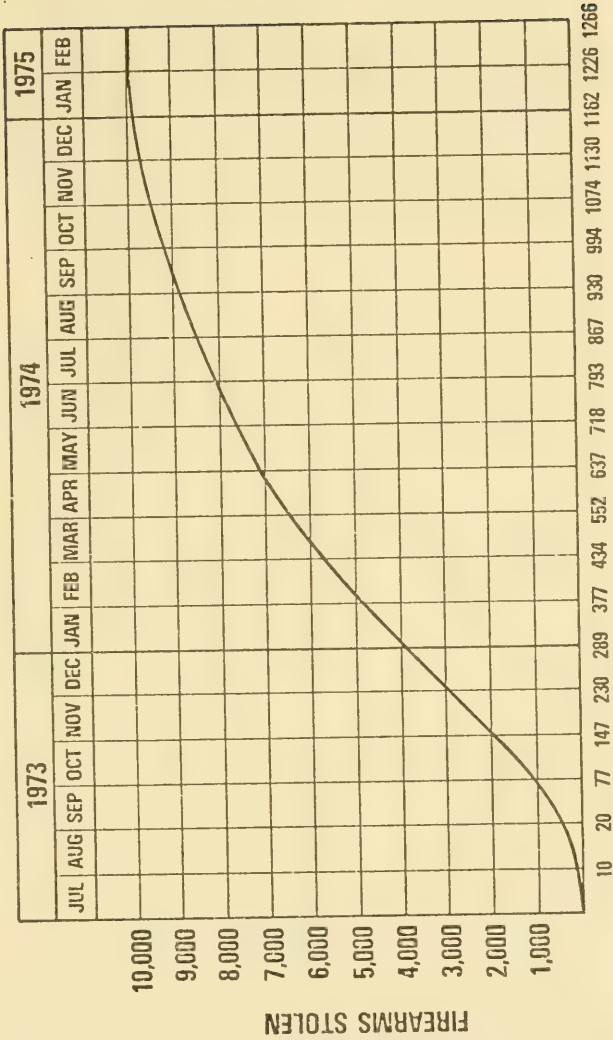


Prepared by U.S. Department of the Treasury,  
Bureau of Alcohol, Tobacco & Firearms, (1975)

# INTERSTATE FIREARMS THEFT PROJECT

1197

Chart No. 4



## THEFT REPORTS RECEIVED

Prepared by U.S. Department of the Treasury,  
Bureau of Alcohol, Tobacco & Firearms, (1975)



Until *Bass*, Section 1202 was a useful tool in efforts to reduce crimes of violence. During FY 1972 (pre-*Bass*) there were 709 Federal indictments, informations, or charges and 425 guilty plea or verdicts for violations of Sec. 1202(a). During 1973 (post-*Bass*), there were 444 indictments and 289 convictions.

As noted by Chief Justice Burger and by Justice Blackmun, in their dissenting opinion, the Congress made a specific finding in Section 1201 of the Act "That the receipt, possession, or transportation of a firearm by felons . . . constitutes (1) a burden on commerce or threat affecting the free flow of commerce. . . ." Review of the legislative history of the Act, including the remarks of its chief sponsor, Senator Long of Louisiana (114 CONG. REC. 13867-16869, 14772-14775), convincingly demonstrated to the Section that the intent of Congress is thwarted by the narrow construction, and the Section recommends corrective measures accordingly.

### *Resolution B: Implementation of Firearms Controls*

1. *Penalties.*—Section 924 of the Gun Control Act provides that anyone who uses or carries a firearm during the commission of a Federal felony shall be sentenced to imprisonment of not less than one nor more than ten years, in addition to punishment for the felony. Upon a second conviction, the imprisonment shall be not less than two nor more than 25 years in addition to punishment for the felony, and shall not be suspended, nor is the person to be eligible for parole. Similar provisions are included in Sections 1822 and 1823 of the proposed revision of the Federal Criminal Code (S. 1, 94th Congress).

The Section noted that of 4671 firearms defendants, recommended for prosecution by the Bureau of Alcohol, Tobacco and Firearms during 1974, 3243 were indicted, but only 1314 convicted, and only 132 acquitted. The Section also noted the February, 1975, report of the Chicago Crime Commission, which indicated that of 73 defendants arrested for state misdemeanor gun charges, 58 (53%) were convicted, but *only one jailed*, and which further indicated that 48% of those convicted had committed similar prior felonies.

The Section further noted that Standard 1.3(a) (i) of the ABA Standards Relating to Probation: "Probation should be the sentence unless the sentencing court finds that confinement is necessary to protect the public from further criminal activity by the offender,".

And Standard 2.2 of the ABA Standards Relating to Sentencing Alternatives: "The sentence imposed in each case should call for the minimum amount of custody or *confinement* which is *consistent with the protection of the public, the gravity of the offense* and the rehabilitative needs of the defendant." (Emphasis added.) are consistent with the provisions of Section 924 of the Act.

Therefore, in Resolution II(B) (1), the Section recommends that the Judiciary be encouraged to impose severe penalties for firearms offenses, to the extent consistent with ABA Standards of Criminal Justice.

2. The Section's Gun Control Committee, during its deliberations, was informed by the aforementioned representatives of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, of its need for additional manpower and financial resources in order to effectively enforce the Gun Control Act of 1968. The full extent of these needs are amply documented in the testimony of Rex D. Davis, Director of the above Bureau, before the Subcommittee on Crime of the House Judiciary Committee on March 20, 1975. However, the present manpower allocation and projected need is summarized by Chart No. 5: Application of Manpower to Firearms (which was submitted by Director Davis to the House Committee). The additional resources are partially needed to carry out the Bureau's proposed policy to require all Federal firearms dealers to report any multiple sale of handguns to individuals.

Further, President Ford, in his message on crime, delivered to the Congress, June 19, 1975, ordered the Bureau to double its investigative efforts for enforcing the Federal firearms laws. In view of the Bureau's need and the President's commitment to enforcing the Act, the Section recommends that the Association support this effort to implement the Act.

# APPLICATION OF MANPOWER TO FIREARMS

Chart No. 5

	DIVISION STATUS UNDER IRS					BUREAU STATUS		
	1968	1969	1970	1971	1972	1973	1974	1975 (EST.) 1976 (EST.)
TOTAL AGENT MANPOWER AVAILABLE	985	1047	1211	1389	1630	1622	1576	1570 1558
AGENT MANPOWER APPLIED TO FIREARMS	214	442	700	810	911	952	1058	1082 1105
INSPECTOR MAN- POWER APPLIED TO FIREARMS *	—	—	—	—	—	3	34	65 112

\* Decision to transfer compliance activity to regulatory enforcement

Prepared by U.S. Department of the Treasury,  
Bureau of Alcohol, Tobacco & Firearms, (1975)

3. *Periodic review.*—The need for determining that a gun-owner is not an individual for whom it is unlawful to possess a firearm, has been discussed above under the comments relating to Resolution I(A) (4). That procedure would only extend to the purchase transaction. The Section recognized that for this determination to be truly effective, unlawful uses of handguns by possessors, subsequent to purchase, must also be deterred. Therefore, the Section recommends that periodic reviews of eligibility of handgun possessors be made.

#### *Resolution II: Long-range program objectives*

##### *Resolution A: Legislation to Implement the Recommendation of the National Advisory Commission on Criminal Justice Standards and Goals*

The Section views the above Recommendations as valuable approaches to the firearms problem which can be addressed immediately. However, the Section recognizes that a problem of this magnitude can be effectively dealt with only on a long-term basis. Therefore, the Section carefully reviewed the long-range program proposed by the National Advisory Commission.

The Commission was appointed by the Administrator of the Law Enforcement Assistance Administration (LEAA) on October 20, 1971, to formulate for the first time national criminal justice standards and goals for crime reduction and prevention at the State and local levels. Membership in the Commission was drawn from the three branches of State and local government, from industry, and from citizen groups. Commissioners were chosen, in part, for their working experience in the criminal justice area. Police chiefs, judges, corrections leaders, and prosecutors were represented.

Other recent Commissions have studied the causes and debilitating effects of crime in our society. The National Advisory Commission sought to expand their work and build upon it by developing a clear statement of priorities, goals, and standards to help set a national strategy to reduce crime. The Commission called for the establishment of a national strategy to reduce crime through the timely and equitable administration of justice.

Among other recommendations, the Commission proposed nationwide action at the State level to eliminate the dangers posed by widespread possession of handguns. The key recommendation being: Elimination of importations, manufacture, sale, and private possession of handguns by January 1, 1983.

In an effort to prohibit possession of handguns, the Commission encourages States to examine and implement this recommendation. As an additional step, the Commission recommends that States prohibit the manufacture, importation, or sale of all handguns other than those for use by law enforcement or military personnel. States should also establish agencies authorized to purchase handguns from private individuals for a just price, and further authorized to modify rare and valuable guns that owners wish to retain as collector's items. Thus, handguns may be removed from circulation, through a system providing just compensation, without confiscation violative of due process of law.

Based upon the factual information presented in Part I of this Report, the Section believes that the violence, fear, suffering, and loss caused by the use of handguns must be stopped by firm and decisive action. The Section likewise recommends that, no later than January 1, 1983, each State should take the following action:

The private possession of handguns should be prohibited for all persons other than law enforcement and military personnel.

Manufacture and sale of handguns should be terminated.

Existing handguns should be acquired by States.

Handguns held by private citizens as collector's items should be modified and rendered inoperative.

This Recommendation of the Section applies only to handguns. The Section believes that laws currently in force regarding rifles and long guns require no change. The Section does not wish to curtail the use of rifles and long guns by hunters and other legitimate users.

##### *Resolution B: Career Criminal Program*

Last September, President Ford directed the Department of Justice to develop and implement a program to deal with career criminals, with the objectives of (1) providing quick identification of persons who repeatedly commit serious offenses with firearms, (2) according priority to their prosecution



by the most experienced prosecutors, and (3) assuring that, if convicted, they receive appropriate sentences to prevent them from immediately returning to society once again to victimize the community.

The results of a repeat offender project recently launched in the Bronx County District Attorney's Office, City of New York, are promising. The first year's experience showed a 97 percent felony conviction rate and a reduction of time in case disposition from an average of 24 months to an average of three months. In addition, prison sentences resulted in 95 percent of the career criminal cases prosecuted.

Therefore, the Section encourages this program as it applies to firearms related offenses.

### *Resolution C: Federal-State Law Enforcement Committees*

Gun related crime is not only a Federal interstate problem, of traffic in interstate commerce. It is also a problem of Federal relationships, in that a gun transferred through interstate commerce, in violation of Federal law, is often used to commit an act illegal under State law—such as an armed robbery. To promote cooperation in the prosecution of both types of offenses, the U.S. Department is establishing Federal-State Law Enforcement Committees in each Federal District.

The American Bar Association *Standards for the Administration of Criminal Justice*, among them Standard 8.1 of the *Urban Police Function* and Standard 2.2 encourage cooperation between law enforcement and prosecutorial agencies. The Section approves the creation of Federal-State Law Enforcement Committees as being consistent with the spirit of the above ABA Standards.

### *III. The legal basis for firearms controls*

There is probably less agreement, more misinformation, and less understanding of the right of citizens to keep and bear arms than on any other current controversial constitutional issue. The crux of the controversy is the construction of the Second Amendment to the Constitution, which reads: "A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed."

In addition to the five decisions in which the Supreme Court has construed the Amendment, every Federal court decision involving the Amendment has given the Amendment a collective, militia interpretation and/or held that firearms control laws enacted under a state's police power are constitutional.<sup>1</sup> Thus arguments premised upon the Federal Second Amendment, or the similar provisions in thirty-seven state constitutions, have never prevented regulation of firearms.

From a legal viewpoint, the Second Amendment means that the Congress may not pass any law which infringes upon the right of "the people" to keep and bear arms. Thus, in *United States v. Cruikshank*, 92 U.S. 542 (1876), in holding defective indictments, under the Enforcement Act of 1870, of two Louisiana "Klansmen" charged with conspiracy to prevent Negroes from bearing arms for lawful purposes, the Supreme Court stated: "The Second Amendment declares that it shall not be infringed; but this . . . means no more than that it shall not be infringed by Congress. This is one of the amendments that has no other effect than to restrict the powers of the federal government. . . ." (at 553).

Neither the United States Constitution nor any of its amendments grant to any one the right to keep and to bear arms. Nor is the right to keep and bear arms a "fundamental right" conferred by the "due process" clause of the

<sup>1</sup> *U.S. v. Miller*, 307 U.S. 174, (1939); *U.S. v. Three Winchester Carbines and Tucker*, Seventh Circuit, 504 F.2d 1288, (1974); *U.S. v. Major Henry Johnson*, Fourth Circuit, 497 F.2d 548, (1974); *Eckert v. City of Philadelphia*, Third Circuit, 477 F.2d 610, (1973); *Cody v. U.S.*, Eighth Circuit, 460 F.2d 34, (1972), cert. denied 409 U.S. 1010, (1972); *U.S. v. Tomlin*, Ninth Circuit, 454 F.2d 176, (1972); *U.S. v. Decker*, Eighth Circuit, 446 F.2d, (1971); *U.S. v. Williams*, Fifth Circuit, 446 F.2d 486, (1971); *U.S. v. McCutcheon*, Seventh Circuit, 446 F.2d 133, (1971); *U.S. v. Lauchli*, Seventh Circuit, 444 F.2d 1037, (1971); *U.S. v. Johnson*, Fifth Circuit, 441 F.2d 1134, (1971); *Stevens v. U.S.*, Sixth Circuit, 440 F.2d 144, (1971); *U.S. v. Synnes*, Eighth Circuit, 438 F.2d 764, (1971); *U.S. v. Krause*, United States District Court, E.D. Wisconsin, 340 F. Supp. 147, (1972); *Klingler v. Erickson*, United States District Court, D. South Dakota, S.D., 328 F. Supp. 674, (1971); *U.S. v. Gross*, United States District Court, S.D. Indiana, 313 F. Supp. 1330, (1970); and *U.S. v. Wiley*, United States District Court, D. Minnesota, 309 F. Supp. 141, (1970).

Fifth and Fourteenth Amendments. *U.S. v. Karnes*, 437 F. 2d 284, 287 (9th Cir., 1971), *cert. denied* 402 U.S. 1008.

The leading case which construes the Amendment is *U.S. v. Miller*, 307 U.S. 174 (1939), which upheld the constitutionality of the Federal Firearms Act of 1934. In sustaining convictions for interstate transport of a "sawed-off" shotgun, the Supreme Court held: "In the absence of any evidence tending to show that possession of a shotgun having a barrel of less than eighteen inches in length at this time has some *reasonable relationship* to the preservation of efficiency of a *well regulated militia*, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument." (at 178, emphasis added.)

The Court added, with respect to the topic of "a well regulated militia" that: "The Constitution, as originally adopted, granted to the Congress power—'. . . to provide for the organizing, *arming*, and disciplining, the Militia . . .' With obvious purpose to assure the continuation and render possible the effectiveness of such forces the declaration and guarantee of the Second Amendment were made."

Advocates of the strict constructionist, pro-gun viewpoint have challenged the rationale of the *Miller* decision on these bases:

The "reasonable relationship" test of *Miller* was not based upon a full development of the facts.

The original intent and concept behind the Second Amendment was to provide for the "unorganized militia," therefore, the right to keep and bear arms is an individual rather than a collective right.

There are similar stronger provisions in 35 State constitutions.

#### A. Evidentiary argument

Had Jack Miller not appeared *pro se* and had a more ample evidentiary record been developed, perhaps the Court may not have been so certain in refusing to find "that this weapon (sawed-off shotgun) is any part of the ordinary military equipment or that its use could contribute to the common defense." For the American Expeditionary Force of World War I was equipped with 30,000 Remington *short-barrel* 12-gauge "trench guns." And as late as 1960, the United States government purchased 100,000 Ithaca #37 shotguns for use by the Army of the Republic of South Viet Nam. (However, these were 20 inch, long-barrel models.) R. H. Rankin, *Small Arms in the Sea Services* 227 (1973).

If the strict constructionist argument is to be accepted most literally, there might be perhaps a right to keep and bear shotguns, since barrel structure and ballistic qualities of the late-18th Century military musket and the modern shotgun are not very different, particularly when the latter is loaded with "pumpkin ball" ammunition. However, the colonial militia acts made a distinction between the military muskets to be kept by militiamen and privately owned rifles. For example, it was not until the Militia Act of 1785 (12 Hening Statutes) that Virginia made an exception that "the militia of the counties west of the Blue Ridge . . . shall not be obliged to be armed with muskets, but may have good rifles. . ."

But, in any case, the "reasonable relationship" test has been virtually abandoned. In *Cases v. United States*, 131 F.2d 916, 922 (1st Cir., 1942), *cert. denied sub. nom. Velazquez v. U.S.* the Court of Appeals referred to the armament of Free French resistance forces during, then then raging, World War II: "In the so called 'Commando Units' some sort of military use seems to have been found for almost any modern lethal weapon." (at 922).

The Court speculated that under the "reasonable relationship" test, Congress could not regulate "the possession or use by private persons not present or prospective members of any military unit, of distinctly military arms, such as machine guns, trench mortars, anti-tank or antiaircraft guns" and therefore rejected that test. Citing *Miller*, the Court of Appeals stated that the function of the Second Amendment was to prevent the Congress from infringing whatever rights have been conferred, upon the people, by local legislation, and went on to uphold the constitutionality of the Federal Firearms Act of 1938.

The Supreme Court has not yet openly rejected the "reasonable relationship" test, but grounds for doing so could arise from the dictum in *Robinson v. Baldwin*, 165 U.S. 275, 281 (1897) in which the Court observed that "the right



of the people to keep and bear arms is not infringed by laws prohibiting the carrying concealed weapons," or from Justice Douglas' dissenting opinion in *Adams, Warden v. Williams*, 407 U.S. 143 (1972) stating "there is no reason why all pistols should not be barred to everyone except the police.

### B. Militia argument

The proponents of this rationale argue that the term "well regulated militia," within the Second Amendment refers to the reserve or unorganized militia, that is, all able-bodied males between ages 18 and 45. Thus, they reiterate the words of George Mason, one of Virginia's delegates to the Constitutional Convention, spoken at the Virginia ratification convention, June 16, 1788: "I ask who are the militia? They consist now of the whole people, except a few public officials."

The proponents reason that the whole people, who composed the militia, is derived from the English practice of assize of arms, and means, and means that every person was a member of the militia, thus the right is individual.

The view of the *Miller* case is that "well regulated" refers to the formal militia, available to "the people" as a policy. Thus, the Amendment was intended to guarantee, to the States, their own source of military protection, while preserving to the United States, their military resource. This view was stated by the Supreme Court in *Presser v. Illinois*, 116 U.S. 252 (1886) and in *Robertson v. Baldwin* 165 U.S. 275, as well as state militia cases, notably *Aymette v. State*, 2 Humphreys 154 (Tenn.), and *Fife v. State* 31 Ark. 455 (1837).

Commentators who have reviewed the annals of the Constitutional Convention and state ratification conventions disagree as to what the intent of the Founding Fathers actually was. Among the supporters of the individual right/unorganized militia view are Justice Story, 3 Commentaries on the Constitution 746-767 (1833), Justice Black, *The Bill of Rights* 35 N.Y.U.L. REV. 865, 873 (1960), Hays, *The Right to Bear Arms, A Study in Judicial Misinterpretation*, 2 WM. & MARY L. REV. 381, 405-406 (1960), a Note, *Restriction on the Right to Bear Arms: State and Federal Firearms Legislation*, 98 U. PA. L. REV. 905, 905-906 (1950), and Sprecher, *The Lost Amendment*, 51 ABA JOURNAL 554-557, 665-669 (1965). Sprecher further suggests that the scope of the Amendment be broadened, by application of the extension doctrines to the States, to afford the right to the individual.

The collectivist/*Miller* view is espoused by Chief Justice Warren, *The Bill of Rights and the Military*, 37 N.Y.U.L. REV. 181, 186 (1962). Emery, *The Constitutional Right to Keep and Bear Arms*, 28 HARV. L. REV. 473, 477 (1975), Haight, *The Right to Keep and Bear Arms*, 2 BILL OF RIGHTS REV. 31, 42 (1942), and McKenna, *The Right to Keep and Bear Arms*, 12 MARQ. L. REV. 138, 149 (1928). McKenna questions whether any right exists under the Second Amendment.

It is doubtful that the Founding Fathers had any intent in mind with regard to meaning of this Amendment. In fact, Bill of Rights language including a right to bear arms was overwhelmingly rejected on two occasions during the Constitutional Convention. The Committee of Style, responsible for drafting the Constitution, had not included such provisions upon the advice of James Madison, in the belief that these principles were well covered by the State constitutions. On September 12, 1787, after George Mason submitted the recommendation of the Committee of Style, agreeing that there was no need for consideration of the issue of a bill of rights, Elbridge Gerry moved for consideration. Roger Sherman spoke against addition of such provisions, and the motion died for lack of a second. On September 15, Peyton Randolph moved for reconsideration, seconded by George Mason. The motion was defeated 38-3, with the only other vote for inclusion being Elbridge Gerry's. M. Farrand, *The Making of the Constitution* 185, 191 (1913).

Second Amendment language was first added at the Virginia ratification convention, in 1788, after 8 states had already ratified the Constitution. Indeed, Bill of Rights was added as a *quid pro quo* for votes in the Virginia and New York conventions. Thus, there was debate, on what was to become the Second Amendment, only in these two states, prior to submission of the Virginia amendments for approval by the Congress. Therefore, the intent of the Founding Fathers, with respect to the militia and the right to bear arms,

must be culled from the constitutions and militia acts of the states which they represented.

There were two arms and militia amendments introduced by Mr. Wythe, at the Virginia Convention on June 27, 1788. These were derived from the Virginia Constitution of 1776, George Mason's Fairfax County Militia Plan of 1787 and the Virginia Militia Act of 1785 (from which the Mason Plan derived). Each of the amendments and documents contains specific language to the effect that the Virginia militia provision, upon which the Second Amendment was refined, refer to a specific State enrolled and supported military unit, and not to a general unorganized or reserve militia.

*Virginia Constitution, June 29, 1776* (emphasis added): "The governor *may embody* the militia, with the advice of the privy council."

It is apparent from this language that, not only was there no provision for an unorganized militia composed of all the people, the keeping of any militia was a permissive function, and that qualifications for the militia was left to the governor.

*Virginia Bill of Rights, June 12, 1776*: "Sec. 13. That the people have a right to keep and bear arms, that a *well regulated militia, composed of the body of people trained to arms*, is the proper natural and safe defense of a free state."

This statement is further evidence that the militiamen, who had the right to keep and bear arms, were only those who had received training, and not the unorganized militia.

*Virginia Militia Act of 1785*: "All free male persons, between the ages of eighteen and fifty years, *inrolled* or formed into companies, shall . . . appear . . . accoutered . . . with a good clean musket."

It is clear, under this Act, that the right to keep and bear arms accrued only to "freemen," and was not an individual right accruing even to indentureds or to slaves. Further, the class of "freemen," even after the Revolution, was inclusive only of those persons who met the stringent property ownership qualifications required for the franchise to vote. R. BROWN, VIRGINIA 1705-1786: DEMOCRACY OR ARISTOCRACY? 308 (1964), M. Jensen. *Democracy in the American Revolution*, 1959 HUNTINGTON LIBRARY QUARTERLY 321-341. Finally, the Act applied only to those actually enrolled in the militia, not to the general populace, and also specifically excepted certain classes and professions from militia service.

*Mason's Fairfax County Militia Plan*: "We do each of us, for ourselves *respectively* promise to engage a good firelock. . . ."

Mason's plan refers, much like an oath of office, to those already enrolled under the above Act. Thus the obligation to maintain arms accrued only to the *respective* members of the militia unit.

*Wythe Amendments to the Virginia Ratification Convention*: "11th. That *each state* respectively shall have the power to provide for organizing, arming and disciplining *its own militia* . . . 17th. (verbatim of Sec. 13 of Virginia Bill of Rights)."

Evidence supporting the narrow definition, embodied in *Mills*, of militia, i.e. the organized militia, is found in militia acts of other states:

"The Train Band . . . contain(ing) every non-commissioned officer and private soldier *not under the control of parents, masters, or guardians and being of sufficient ability therefor in the judgment of the Selectmen of the town* in which he shall dwell, shall equip himself with a good firearm." (Massachusetts, 1784.)

"That every able bodied male person, being a Citizen of this State, *except such persons as are hereinafter excepted, so inrolled and notified*, shall . . . provide himself with a good musket. (New York, 1786.)

In summary, it is clear, from the legislative background of the colonial militia acts and from the history of the Constitutional Conventions, that the militia was not composed of the whole people, and that the Second Amendment should be viewed as referring to a collective right. Such a view, furthermore, is consistent with the language of the preamble to the Constitution, "We, the people, . . . to provide for the *common* defense . . . ."

### C. State Constitution argument

This argument rests on the premise that, under the Second Amendment, the Congress can make no federal law which shall infringe the right to keep and bear arms guaranteed under a State constitution, if the State constitution has a similar or stronger provisions. Thirty-seven states have such provisions,

including 25 (Alabama, Arizona, Colorado, Connecticut, Florida, Georgia, Idaho, Indiana, Kentucky, Michigan, Mississippi, Missouri, Montana, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Vermont, Washington, and Wyoming) which have stronger provisions, which would appear to recognize the right as being an individual rather than collective right, e.g.

Arizona—"the right of the individual citizen to bear arms in defense of himself or the State shall not be impaired."

Michigan—"every person has the right to keep and bear arms . . . ."

Pennsylvania—"the right of the citizens to bear arms in defense of themselves and the State shall not be questioned."

The States, themselves, however, viewed the right as being conferred upon the State, in the militia context, and not upon the individual. *Jeffers v. Fair*, 33 Georgia 347, *People v. Brown*, 253 Michigan 537, *State v. Duke*, 42 Texas 455.

Thus, as early as 1813, Kentucky regulated concealed weapons, followed by Indiana (1820), Arkansas and Georgia (1837). This view was accepted by the Supreme Court in *Miller v. Texas*, 153 U.S. 535, 538 (1894). See also *People v. Raso*, 9 Misc. 2d 739 (N.Y., 1958) for a recent statement of this principle.

Finally, with respect to the legal basis for firearms controls, it must be noted that the affirmative basis for Federal gun control legislation extends from the power, under the interstate commerce clause, to prohibit as well as to regulate forms of commerce, *Champion v. Ames*, 188 U.S. 321 (1903), application as a police power to gambling; *Sonzinsky v. U.S.*, 300 U.S. 506, 513 (1937), taxing of firearms in commerce.

In conformance with Association policy, in view of their possible interest in the subject matter of this Report, copies have been disseminated to the following: Special Committee on the Administration of Criminal Justice, Special Committee to Study Federal Law Enforcement Agencies, Special Committee on Implementation of Standards and Codes, Standing Committee on Legislation, Section of Individual Rights and Responsibilities, Judicial Administration Division, Young Lawyers Section, and Law Student Division.

Respectfully submitted,

BEN R. MILLER, *Chairman*.

August 1975.

THE AMERICAN LEGION,  
Washington, D.C., September 23, 1975.

HON. JAMES O. EASTLAND,  
*Chairman, Senate Committee on the Judiciary,*  
*Dirksen Senate Office Building,*  
*Washington, D.C.*

DEAR CHAIRMAN EASTLAND: Enclosed is a copy of American Legion Resolution No. 388 adopted by our 57th National Convention on gun control legislation that may be of interest to you and your Committee.

It is my understanding that Senator Bayh's Subcommittee on Juvenile Delinquency will be holding hearings on this issue but the dates for these hearings have not been scheduled. A copy of this letter is being forwarded to Senator Bayh with the request that our resolution be made a part of the hearing record.

Please do not hesitate to contact me if you need additional information on our position.

Very truly yours,

MYLIO S. KRAJA,  
*Director, National Legislative Commission.*

57TH NATIONAL CONVENTION OF THE AMERICAN LEGION  
MINNEAPOLIS, MINN., AUGUST 19-21, 1975

RESOLUTION NO. 388

Committee: National Security.  
Subject: Gun control legislation.

Whereas, guns do not kill people—people kill people; and

Whereas, according to FBI reports, firearms are used in less than 4% of all serious crimes nation-wide; and

Whereas, over the past 10 years less than one-fourth of the aggravated assault cases across the nation were committed with firearms; and



Whereas, many items such as knives, all types of sharp or blunt objects, such as letter openers, clubs, bricks, and stones, as well as autos and water are the cause of injuries and death and cannot be outlawed; and

Whereas, the sportsman-trained sharp-shooter has been a valuable asset to our country in time of war; and

Whereas, the special federal and state taxes on all guns and ammunition and money from hunting license fees have been instrumental in re-establishing and maintaining the wildlife ecology of our great land; and

Whereas, the history of the world shows that firearm registration leads to confiscation; now, therefore, be it

*Resolved*, By The American Legion in National Convention assembled in Minneapolis, Minnesota, August 19-21, 1975, that we oppose legislation on the local, state and national levels that would require the registration of, the confiscation of, or forbid the ownership by private individuals of, firearms or ammunition for same; and, be it further

*Resolved*, That The American Legion does support legislation making a jail sentence mandatory for the use of any firearm in the commission of a felony and with no suspension of sentence or no probation possible.

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AMERICAN LEGION, ANNISTON POST No. 26,  
Anniston, Ala., November 6, 1975.

Whereas, the misguided souls of our wonderful land seemed determined to undermine the great American ideals, beliefs, customs, practices and unalienable rights of its people to Keep and Bear Arms, according to Article II, "RIGHTS TO KEEP AND BEAR ARMS", of the Constitution of the United States with a so-called "gun control" law, and

Whereas, our forefathers carved an empire out of the wilderness of this vast and hostile land with their bare hands but always with a gun at their side, and

Whereas, we have thrilled many times at the sight of the famous pictures of our Pilgrim fathers going to church on the Sabbath Day with their "blunderbuss" across their arm, and

Whereas, our western United States was developed into a beautiful, fruitful and peaceful land by the sheer guts of our pioneers who dared push ever westward, but always with his six-gun strapped at his hip, and

Whereas, it has always been our custom and tradition for every man to protect his home, his wife, his children and his sacred honor from any and all foes of whatever nature, and

Whereas, we believe a token of "gun control" is only the beginning for final gun confiscation as was done in the busing of little children. This was to be only token with primary children we were told until the Feds got their foot inside the door and then it must include Junior High children as well. Now we have utter chaos. And

Whereas, we believe that the so-call "gun control" law will result in only outlaws having guns, and

Whereas, we no longer trust the Federal Bureaucrats with such vital authority over our lives and fortunes. Be it

*Resolved*, That the American Legion Post 26, which has an undisputed record of faithfulness to our country, persistence in standing for those ideals, beliefs, customs, practices and unalienable rights of its people, hereby denounce now and forever any and efforts by the Congress of these United States of America to enact any legislation curtailing our rights under Article II, "Rights to Keep and Bear Arms". Be it further

*Resolved*, That American Legion Post 26 wishes to go on record as favoring immediate and severe punishment for any person or persons using a gun, knife, club or any other instrument to frighten, harass, injure, obtain favor, or money or other valuables, or to commit rape or commit murder. And be it further

*Resolved*, That a copy of this resolution be placed in the hands of every member of the Congress of the United States and the President thereof forthwith.

Signed,

CECIL MUNDY,  
Commander,

A. H. COOPER,  
Chairman, Committee on Americanism.

AMERICAN LEGION POST NO. 57,  
Jacksonville, Ala., November 20, 1975.

Whereas, the misguided souls of our wonderful land seemed determined to undermine the great American ideals, beliefs, customs, practices and unalienable rights of its people to Keep and Bear Arms, according to Article II, "RIGHTS TO KEEP AND BEAR ARMS", of the Constitution of the United States with a so-called "gun control" law, and

Whereas, our forefathers carved an empire out of the wilderness of this vast and hostile land with their bare hands but always with a gun at their side, and

Whereas, we have thrilled many times at the sight of the famous pictures of our Pilgrim fathers going to church on the Sabbath Day with their "blunderbuss" across their arm, and

Whereas, our Western United States was developed into a beautiful, fruitful and peaceful land by the sheer guts of our pioneers who dared push ever westward, but always with his six-gun strapped at his hip, and

Whereas, it has always been our custom and tradition for every man to protect his home, his wife, his children and his sacred honor from any and all foes of whatever nature, and

Whereas, we believe a token of "gun control" is only the beginning for final gun confiscation as was done in the busing of little children. This was to be only token with primary children we were told until the FEDS got their foot inside the door and then it must include Junior High children as well. Now—utter chaos. And

Whereas, we believe that the so-called "gun control" law will result in only outlaws having guns, and

Whereas, we no longer trust the Federal Bureaucrats with such vital authority over our lives and fortunes. Be it

Resolved, That American Legion Post #57 in joint action with Voiture 1201 of the 40 and 8 of Alabama, who have undisputed records of faithfulness to our country, persistence in standing for those ideals, beliefs, customs, practices and unalienable rights of its people, hereby denounce now and forever any and all efforts by the Congress of these United States of America to enact any legislation curtailing our "RIGHTS TO KEEP AND BEAR ARMS". And be it further

Resolved, That American Legion Post #57 in joint action with Voiture 1201 40 and 8 of Alabama wish to go on record favoring immediate and severe punishment for any person or persons using a gun, knife, club or any other instrument to frighten, harass, injure, obtain favor, money or other valuables, or to commit rape or to commit murder, and be it further

Resolved, That a copy of this resolution be placed in the hands of every member of the Congress of the United States and the President thereof forthwith.

Signed.

HOUSTON C. BITTERTON,  
Commander,

CHARLES J. ———,  
Chef de Gare, Voiture 1201 40 and 8.

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CITY OF LOS ANGELES, CALIFORNIA,  
October 20, 1975.

HON. BIRCH BAYH,  
Chairman, Subcommittee to Investigate Juvenile Delinquency,  
Senate Committee on the Judiciary,  
Washington, D.C.

DEAR SENATOR BAYH: We are transmitting three resolutions of the City Council of the City of Los Angeles relating to guns.

1. Supporting legislation to prohibit the manufacture and transportation of the "Saturday Night Special" handgun.

2. Prohibit and make a felony the manufacture, sale or possession of any center-fire, semi-automatic rifle with a self-contained magazine having a capacity of over five rounds; and illegal the manufacture or possession of a detachable clip of over five rounds; and illegal the manufacture or possession of a detachable clip of over five rounds for use with same.



3. Provide that any person using a firearm in the commission of a felony be sentenced to an additional mandatory term of imprisonment.

If we may answer any questions or be of any assistance please contact me or Art Rogers or Maggie Mahoney at 293-7855.

Sincerely,

DARREL H. STEARNS,  
*Federal Legislative Representative.*

Attachments.

CITY OF LOS ANGELES, CALIFORNIA,  
*September 29, 1975.*

**SUPPORT LEGISLATION THAT WOULD PROHIBIT THE MANUFACTURE AND TRANSPORTATION OF THE "SATURDAY NIGHT SPECIAL" TYPE HANDGUN**

I hereby certify that the attached motion (Yaroslavsky-Cunningham) was adopted by the Los Angeles City Council at its meeting held September 29, 1975.

Also at said meeting the report of the Police, Fire and Civil Defense Committee, recommending that communication from California Rifle and Pistol Association, Inc., dated February 3, 1972, recommending support of S-2507 by Senator Bayh of Indiana, be received and filed, was order placed in the files.

REX E. LAYTON,  
*City Clerk,*  
RICHARD H. BOWERS,  
*Deputy.*

**MOTION**

I move that the Chief Legislative Analyst be instructed to support both Federal and State legislation that would prohibit the manufacture and transportation of the "Saturday Night Special" type of handgun.

I further move that appropriate legislation both at the State and Federal levels also be supported that would consider the existing "Saturday Night Specials" currently in possession of private parties as contraband items.

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CITY OF LOS ANGELES, CALIFORNIA,  
*May 22, 1975.*

**LOS ANGELES CITY: SUPPORT OF HR 4361**

I hereby certify that the attached State, County and Federal Affairs Committee report was adopted by the Los Angeles City Council at its meeting held May 22, 1975.

REX E. LAYTON,  
*City Clerk,*  
IRVIN WALDER,  
*Deputy.*

To The Council of the City of Los Angeles.

Your State, County and Federal Affairs Committee reports as follows:

Consideration has been given to the report from the Committee on Proposed Legislation, Legislative Advisory Committee, and we recommend that the City's Federal Legislative Program for 1975-76 include the following position:

Support of HR 4361 (Anderson) and/or similar legislation in the 94th Congress which would provide that any person who uses a firearm in the commission of a felony shall be sentenced to an additional mandatory term of imprisonment.

Respectfully submitted,

STATE, COUNTY AND FEDERAL AFFAIRS COMMITTEE.

CITY OF LOS ANGELES, CALIFORNIA,  
*March 14, 1975.*

PROPOSED IMPROVEMENTS FOR LOCAL, STATE AND FEDERAL GUN CONTROL

I hereby certify that the attached State, County and Federal Affairs Committee report was adopted by the Los Angeles City Council at its meeting held March 14, 1975.

REX E. LAYTON,  
*City Clerk,*  
 \_\_\_\_\_,  
*Deputy.*

To the Council of the City of Los Angeles.

Your State, County and Federal Affairs Committee reports as follows:

Your Committee gave consideration to the reports from the Board of Police Commissioners and City Attorney concerning proposed improvements for local, state and federal gun control. Said reports were submitted in response to a Motion (Cunningham-Bernardi) that the City Attorney be requested to report on the authority of the City to impose by ordinance additional City gun registration and regulations; and that the Police Department be instructed to report what, if any, improvements could and should be made in city, state, or federal gun registration and regulations.

The City Attorney reported that the Legislature had effectively preempted the field of firearm control, both in terms of registration and licensing. Thus, any attempt by the City of Los Angeles to administer ordinances requiring additional registration or regulation related to firearms would be invalid.

The Board of Police Commissioners' reports that proponents of stricter gun control view mandatory registration of all firearms and the licensing of individuals to possess firearms as perhaps the only means to stem criminal violence by gunshot. Opponents of tighter gun controls raise a number of objections, ranging from constitutional arguments through to fears that registration will ultimately spell confiscation with the resulting consequence that only criminals will have guns, and legitimate possession will be penalized.

We have referred the Police Commissioners' report to the Police, Fire and Civil Defense Committee for comments on administrative policy contained therein.

In order to improve the control of firearms primarily with respect to applicable state and federal law, we RECOMMEND, substantially as recommended by the Board of Police Commissioners, that City's Legislative Program include sponsorship and/or support of legislation to accomplish the following:

1. An amendment to California Penal Code (P.C.) Section 12021 (Narcotic addicts and convicted felons forbidden possession of firearms) to include persons who have suffered any misdemeanor conviction as a result of their felonious use of a weapon. The amendment should require the court or jury at the time of conviction to specifically find whether or not the conviction was based on the felonious use of a weapon. This amendment should also preclude such convicted persons from being able to purchase or possess a concealable firearm.

2. An amendment to P.C. Section 12020 (Manufacture, sale, possession of certain weapons prohibited) and the appropriate federal statutes to include any center-fire, semi-automatic rifle with a self-contained magazine having a capacity of over five rounds. The manufacture, sale or possession of such a firearm would constitute a felony. An additional provision would be to make it illegal to manufacture or possess a detachable clip having the capacity of containing more than five cartridges and designed for use with a center-fire, semi-automatic rifle.

We further recommend that the 1975-76 City's Legislative Program include support of legislation and/or other action, substantially as adopted by the

California Peace Officers' Association Ad Hoc Committee in November, 1973, to:

1. Require a dealer's record of sale on all firearm sales, and that it be made available to law enforcement;
2. Require that all firearm purchasers be identified by fingerprints to be submitted with the dealer's record of sale;
3. Lengthen the waiting period for transfer of a firearm from the present five-day period to ten days, with the requirement that the appropriate law enforcement agency must respond within the ten-day period;
4. Require that persons found to be prohibited from possessing concealed firearms, under existing law, be denied the right to possess any type of firearm.

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MONTANA STATE HOUSE OF REPRESENTATIVES.

To: Members of the United States Congress.

From: Representative Bill Asher, House District 79, Montana State Legislature.

Re: Gun-control.

So there will be no mistake about where Montanans in general and the Montana Legislature in particular stand on the subject of gun-control, please find on the reverse side a copy of HJR 65.

This resolution passed the Montana House of Representatives on Feb. 27, 1975, by a vote of 77-4 and the Montana Senate on March 2, 1975, by a vote of 44-4.

Both the Speaker of the House and the President of the Senate signed HJR 65 on April 5, 1975.

The labor and expense of informing the Congress of the United States of Montana's stand on gun-control was shared by an informal group of interested citizens.

Sincerely,

BILL ASHER,  
*Representative, Montana State Legislature.*

HOUSE JOINT RESOLUTION NO. 65

Introduced by Asher, Marks, Lockrem, Day, Conroy, Jack Moore, Fabrega, Kropp, Hubing, Babcock, Gould, J. Anderson, Teague, Ellerd, Underdal, Wyrick, Seifert, Manuel, Fagg, Jacobsen, Bertelsen, Lund, Sivertsen, Gwynn, Kummerfeldt, Hager, Johnston, Ageson, Schye, R. Baeth, Ellison, Ellis, Casey, Guthrie, Robbins, Lien, Tropila, Smith, Staigmiller, Kanduch, Barrett.

A Joint Resolution of The Senate and The House of Representatives of The State of Montana Declaring The Montana State Legislature's Unalterable Opposition to Registration and Confiscation of Firearms.

Whereas, the right of an individual to keep and bear arms is fundamental to the preservation of freedom and is guaranteed by the Constitution of the United States, and

Whereas, firearms are, always have been, and always will be very much a part of the way of life in the great state of Montana, and

Whereas, the private ownership of firearms, including handguns, is the last line of defense against the criminal element, and

Whereas, the report of the National Advisory Commission on Criminal Justice Standards and Goals, issued in August, 1973, advocates, among other things, the confiscation of all privately owned handguns, and

Whereas, the people of Montana having seen that federal firearm registration is leading us closer to federal confiscation of firearms. Now, therefore, be it

*Resolved*, By the Senate and the House of Representatives of the State of Montana: That the Legislature of the state of Montana go on record as being unalterably opposed to registration and confiscation of firearms in general, and specifically to the recommendations of the National Advisory Commission on Criminal Justice Standards and Goals, and be it further

*Resolved*, That a copy of this joint resolution be sent to the President of the United States, to the Vice President of the United States, to Montana's Senators and Representatives in Congress, and to all state legislatures.

NATIONAL CONGRESS OF PARENTS AND TEACHERS,  
*Chicago, Ill., October 9, 1975.*

HON. BIRCH BAYH,  
*U.S. Senate,  
Washington, D.C.*

DEAR SENATOR BAYH: Our national president, Carol Kimmel, asked that I send you this PTA position on hand gun control.

Sincerely,

DR. ROBERT M. CRUM,  
*Managing Director.*

Enclosure.

MOTIONS ADOPTED BY CONVENTION DELEGATES, JUNE 1975

That the National PTA support legislation that will restrict the manufacture of hand guns and hand gun ammunition.

That the National PTA support legislation which will ban the manufacture, importation, assembly or sales of the "Saturday Night Special".



## POLICY POSITIONS ON HANDGUN CONTROL BY NATIONAL ORGANIZATIONS

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### AMERICAN BAPTIST CONVENTION, DIVISION OF SOCIAL CONCERN

It is our conviction that a strong gun control law is needed on the national level. We commend those who are working to that end and pledge them our support. . . . We urge that . . . legislation be passed requiring registration of all firearms, the licensing of all owners, and limitation of types of firearms available for private ownership.

Adopted, September 1968

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### AMERICAN BAR ASSOCIATION, SECTION ON CRIMINAL JUSTICE

The Section of Criminal Justice recommends adoption of the following recommendation:

*I. Resolved*, that the American Bar Association, recognizing the alarming increase in serious and violent crimes committed by those in possession of handguns and recognizing inadequacies of existing federal and state legislation concerning firearms, and having considered the established policy of this Association which supports "the enactment of appropriate state and federal legislation providing effective control of the importation, sale, transportation and possession of firearms," reaffirms said policy and recommends these immediate actions, which are consistent with such policy, as minimum steps to more fully implement the Gun Control Act of 1968 (P.L. 90-618, 82 Stat. 1213) and to give effect to the mandate of the existing policy of the American Bar Association.

*A. Resolved*, that the American Bar Association recommends the Gun Control Act of 1968 be amended so as to cure demonstrated legal deficiencies, specifically.

1. That Section 922(a) (1) of the Act, making it unlawful for any person except a licensed dealer, licensed manufacturer, or licensed importer to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, be amended to provide that.

"It shall be unlawful for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, *their parts or components*. . . ."

2. That Section 921(4) of the Act, which defines a "destructive device" as not including any device not likely to be used as a weapon or which the owner intends to use solely for sporting purposes, be amended to define the term "sporting purposes" as.

"The term, 'firearm for sporting purposes' any rifle, shotgun, long gun, or handgun appropriate for the purposes of hunting, trap shooting, target shooting, or organized competition shooting, meeting prescribed specifications, including barrel length, weight, type of sight, type of grip, caliber, safety mechanisms, and other factors as prescribed by the Secretary of the Treasury.

3. That Section 923 of the Act, providing for the licensing of dealers, manufacturers and importers, be amended to upgrade the standards of eligibility for licensing of dealers, importers and manufacturers specified within Section 923(a), and be further amended to make the conferral of such licenses, pursuant to Section 923(c) and (d) a discretionary rather than a mandatory action, by amending these subsections to read.



"(c) Upon the filing of a proper application fee, and payment of the prescribed fee, and upon completion of reasonable investigation made to determine that the applicant is not an individual as provided by Section 229(b)(1), 229(g) and (h) of this Act, for whom it is unlawful to ship, transport, receive or possess a firearm, the Secretary may issue to a qualified applicant the appropriate license. . . ."

"(d) (1) Any application submitted under subsection (a) or (b) of this section may be approved if—"

4. That Section 922(c) of the Act, providing for the execution of a sworn statement, by the transferee of a firearm, to the effect that the transferee is not an individual, within the meaning of the Act, for whom it is unlawful to possess a firearm, be amended to include a procedure, such as a waiting period between purchase and transfer of possession during which time the transferor shall report the transfer of the firearm and the identity of the transferee, to the Bureau of Alcohol, Tobacco, and Firearms.

5. That Section 922 of the Act, specifying unlawful acts, be amended to include the provisions of Section 842(j) and (k) of the Organized Crime Control Act of 1970 (P.L. 91-452, 84 Stat. 922) and that Section 923 of the Gun Control Act, concerning licensing, be amended to include the provisions of Section 843(b) (4) of the Organized Crime Control Act, the effect of both proposed amendments being to require dealers, manufacturers, transporters, and importers of firearms, ammunition, their parts or components, to provide adequate and secure storage facilities for firearms, or ammunition within their possession, in order to reduce the incidence of theft of firearms and ammunition, and also to report any losses or thefts of such items, within their possession, to the Bureau of Alcohol, Tobacco, and Firearms.

6. That, insofar as the language of the Act has been construed in *U.S. v. Bass* 404 U.S. 336 (1971), contrary to the intent of the Congress, to require, after the effective date of said Act, a nexus of a transaction in interstate commerce, with proof of venue, in order for the receipt or possession of firearm by a convicted felon to be a violation of the Act, that Section 1202 of the Act, providing "receives, possesses, or transports in commerce or affecting commerce," be amended to change the jurisdictional basis for prohibition of possession of a firearm, under the present statute, from reliance upon transport in interstate commerce to (1) constituting a burden on commerce, and (2) a threat to the effective enforcement of the Federal criminal laws, including those laws designed to protect the safety of the President.

B. *Resolved*, that the American Bar Association recommends that the Gun Control Act of 1968 be further strengthened by more effective implementation of existing firearms controls, specifically,

1. That the Judiciary be encouraged to impose severe penalties, to the extent consistent with the American Bar Association *Standards for the Administration of Criminal Justice*, for the possession or use of a firearm or facsimile in the commission of a crime, as provided for by Section 924(c) of the Act.

2. That the Congress and the Executive Branch, through the President, be urged to provide adequate appropriation and manpower resources to the Bureau of Alcohol, Tobacco and Firearms, and to other Federal law enforcement officials, both prosecutive and investigative, for the purpose of enforcing the Act.

3. That periodic review be made of the eligibility of the possessors of handguns, consistent with the safeguards of due process.

II. *Resolved*, that the American Bar Association, recognizing the crisis created by the increase in serious and violent crimes committed by those in possession of handguns, recommends that additional legislation be enacted, specifically,

A. *Resolved*, that the American Bar Association, urges that Federal Investigators and prosecutors should be directed wherever feasible, to assign a high priority and major importance to alleged firearms offenses, particularly those which are repeated offenses committed by previously convicted felons. To that end, the American Bar Association supports the objectives of the current Career Criminal Program, sponsored by the U.S. Department of Justice, designed to target such offenses and criminals for rapid prosecution through the criminal justice system.

B. *Resolved*, that the American Bar Association urges effective cooperation among federal, state, and local law enforcement agencies in investigating and prosecuting firearms offenses, and accordingly supports the objectives of the

U.S. Department of Justice's Federal-State Law Enforcement Committees, which are now being established in each federal judicial district to foster such cooperation.

III. *Be it further Resolved*, that the President of the Association or his designee be authorized to communicate the positions taken on these recommendations to the appropriate individuals or entities, including, where warranted, testimony before committees of the Congress.

Adopted by the Board of Governors  
August, 1975

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#### AMERICAN CIVIL LIBERTIES UNION

The Union agrees with the Supreme Court's long-standing interpretation of the Second Amendment that the individual's right to keep and bear arms applies only to the preservation or efficiency of "a well regulated militia." Except for lawful police and military purposes, the possession of weapons by individuals is not constitutionally protected.

The ACLU urges adoption of strong federal gun control legislation as a necessary condition of fostering the atmosphere of open and fearless debate on which a free society rests. Where armed citizens flaunt guns in the midst of race conflict or labor-management disputes or political turmoil, citizens who hold minority or unpopular opinions on these issues can be cowed into silence. In these instances violence, or the prospect of violence, becomes more powerful than the First Amendment. Moreover, in areas where half-way gun control measures exist, or where the laws are loosely enforced, certain parts of the population may be armed to the teeth, while the law is applied only to their intended victims. Unless strong gun control regulation is adopted, the freedoms association with civilized society cannot be fully enjoyed.

Effective gun control requires both the registration of firearms and the licensing of owners and dealers. With regard to registration, whose underlying purpose is to aid law enforcement, the principal consideration is to strike a balance between the desirability of a maximum of information necessary to trace an owner, on the one hand, and the competing interests of individual privacy and inconvenience. Licensing, whose purpose is to keep guns from the hands of persons considered likely to misuse them, presents more difficult problems: for example, to deny a license to any person convicted of any felony or ever committed to an institution by a court for reasons of alcoholism, narcotics addiction, or mental incompetence, or to any non-citizen, would be to deny both the wide variety among types of offenses classified as felonies and the possibility of rehabilitation, to deny the growing medical and juridical evidence that alcoholism and addiction are diseases and are curable, and to impose an entirely unreasonable distinction between citizens and non-citizens not sanctioned by law or tradition. On the other hand, ACLU urges that any applicant for a gun license be required to demonstrate, by a short test similar to that given for cars and motorcycles, that he knows how to handle a gun with some degree of proficiency. Finally, to check any abuse of discretion by local officials in the course of the licensing procedure, an appeals board should be made mandatory on both the federal and state levels, and specific guidelines for procedures which conform with due process should be provided for the operations of such boards.

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#### AMERICAN FARM BUREAU FEDERATION

Since the Constitution of the United States guarantees to each citizen the right to keep and bear arms, we believe state or federal registration of firearms to an infringement on the rights of citizens. We oppose any legislation to require registration or licensing of firearms.

We support mandatory imprisonment of any persons convicted of a felony involving the use of firearms.

Adopted, January 1975  
New Orleans Convention

## AFL-CIO

Whereas, in the past 10 years, 560 policemen have been killed in the line of duty, three-quarters of them by handguns. Nationwide, comparably the United States has more homicides than any country in the world, 52 percent caused by handguns, and

Whereas, the Gun Control Act of 1968 has had some effect in controlling the sale of guns not used for legitimate sports hunting, but it is weakened by several loopholes. For example, it bans the importation of cheap handguns called "Saturday Night Specials" but does not prohibit importing their parts for assembly here. So instead of importing guns, a number of factories import the parts and assemble them in this country. Other factories are making these cheap handguns entirely, without depending on imported parts, and

Whereas, another loophole is that although a buyer can't order a handgun from a dealer in another state, he can place his request with a dealer in his own state to order it for him, and

Whereas, as a result of these loopholes, there has been no slackening of the traffic in cheap handguns. It is estimated that there are 24 million of them in private hands, 2½ million more being added every year, and

Whereas, the supply of handguns continues to grow unhindered and corrective legislation has been stymied chiefly as a result of activities of one of the most potent lobbies in the country, that consisting of gun and ammunition manufacturers, allied with the defense establishment and centered around the National Rifle Association, and

Whereas, the NRA has been instrumental in defeating all effective gun control legislation and even now is trying to have amendments passed to weaken what few restrictions do exist, and

Whereas, it is clear that stronger firearm control laws are absolutely necessary to reduce the astounding amount of gun violence in this country, and

Whereas, not only does this nation's experience show that gun control laws can work, but records of other industrialized countries also prove that stringent control laws reduce homicides. Making it harder for anyone, honest people and criminals alike, to get hold of a handgun makes it more difficult for anyone to kill someone with a handgun, and

Whereas, that has been demonstrated by the record of two states which have more stringent laws (New York and Massachusetts) and a number of cities (Philadelphia, Louisville, Toledo, among others). But local gun control laws do not prevent someone from buying a gun in the next town. The answer has to be federal legislation, and

Whereas, handgun control will not limit the legitimate use of hunting rifles or shotguns, and poses no threat to the hundreds of Americans who use rifles or shotguns for sporting purposes. But handgun control does have a lot to do with crime control. Those who are concerned about law and order, including politicians of both major parties, should first of all support handgun regulations, which represents the most direct route to reducing violent crime, and

Whereas, notwithstanding the NRA lobbying an overwhelming majority of Americans have indicated they would like to see handgun controls enacted: Therefore, be it

Resolved, that AFL-CIO agrees with this sensible majority and strongly urges Congress to enact strong handgun control legislation.

AFL-CIO Convention Resolution, 1971

## AFSCME: AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES

Whereas, the rising rate of crime has prompted many well intentioned persons to propose legislation, primarily centering on demands for stricter firearms controls, which offer simple solutions to the complex problems of crime control.

Whereas, experience repeatedly has shown that firearm controls do little to affect the determined criminal but much to discourage the law abiding citizen from possessing and using firearms for legitimate purposes.

Whereas, firearms controls which affect only the law abiding citizen and, in effect, limit his ability for self-defense in an area of high crime without a corresponding increase in the security of that community tend to encourage disrespect and disregard for the laws.



Whereas, there is a gross disproportion between any benefit to be realized to the society from firearms controls and the unwarranted imposition on the individual's right to possess and use firearms for legitimate purposes.

Whereas, there is no established causal relationship between the availability of firearms and the rising rate of crime.

Whereas, a firearm is an instrument which, depending on the intent, can be used for good, for evil, and laws should be directed at the evil use of firearms.

Whereas, the number of firearms used in crimes is infinitesimal as compared to the number of firearms possessed legitimately by American citizens.

Whereas, firearms play an integral, necessary and legitimate role in the everyday lives of millions of law abiding citizens, particularly those living in rural areas.

Whereas, presently existing firearm laws properly enforced or with reasonable alterations, could accomplish the desired purpose of regulating the misuse of firearms without further comprehensive and restrictive legislation.

Whereas, firearm controls are often expensive, time-consuming and selectively enforced with the result being to divert funds from more effective law enforcement programs, such as patrols, equipment, additional and better trained police, prison reform and rehabilitation.

Now, therefore, be it resolved by the American Federation of State, County, and Municipal Employees that:

We support those laws and proposals which assure the citizen of good repute the continued right to possess and use firearms for legitimate purposes and oppose those which will unduly burden or restrict that right.

19th International Convention  
June 1972

#### COMMITTEE FOR ECONOMIC DEVELOPMENT: COMMITTEE FOR IMPROVEMENT OF MANAGEMENT IN GOVERNMENT

Private importation, distribution, and possession of handguns and parts or ammunition for them should become major criminal offenses under both federal and state laws. The sole owners of such weapons should be the national and state governments, which could then issue them on a temporary and returnable basis to members of the security forces and other authorized persons under carefully drawn regulations. Manufacture should be halted until existing inventories are exhausted, after which further domestic production and export-import trade would be placed under strict licensing controls.

Adopted June, 1972, by the Committee  
for Improvement of Management in Government

#### COMMON CAUSE

We favor nothing less than total ban on the sale and manufacture of all handguns, with exemptions for police, military personnel and pistol clubs, as proposed by Chairman Emanuel Celler and Representative Abner Mikva. And because we agree with Quinn Tamm, the former executive director of the International Association of Chiefs of Police that most persons possessing firearms "are a menace to themselves and their families," we endorse the proposal of Senators Hart and Harris that private ownership of handguns also be prohibited.

Statement presented to Subcommittee #5,  
House Judiciary Committee, June 1972

#### INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Whereas, there is in the United States a widespread traffic of firearms moving in or otherwise affecting interstate or foreign commerce, and the existing Federal controls over such traffic do not adequately enable the states to control the firearms traffic within their own borders through the exercise of their police power;

And recognizing, that the ease with which any person can acquire firearms (including criminals, juveniles without the knowledge or consent of their parents or guardians, narcotics addicts, mental defectives, armed groups who would supplant the functions of duly constituted public authorities, and others whose possession of firearms is similarly contrary to the public interest) is a significant factor in the prevalence of lawlessness and violent crime in the United States;

That the possession and use of firearms by those engaged in crime and lawless activities aids in the carrying out of such activities and greatly magnifies the tragic and serious consequences thereof;

That the acquisition on a mail order basis of firearms by nonlicensed individuals, from a place other than their state or residence, has materially tended to thwart the effectiveness of state laws and regulations, and local ordinances;

That the sale or other disposition of concealable weapons by importers, manufacturers, and dealers holding Federal licenses, to nonresidents of the state in which the licensee's place of business is located, has tended to make ineffective the laws, regulations, and ordinances in the several states and local jurisdictions regarding such firearms;

That the United States has become the dumping ground of the castoff surplus military weapons of other nations, and that such weapons, and the large volume of relatively inexpensive pistols and revolvers (largely worthless for sporting purposes), imported into the United States in recent years, have contributed greatly to lawlessness and to the Nation's law enforcement problems;

That there is a casual relationship between the easy availability of firearms and juvenile and youthful criminal behavior, and that firearms have been widely sold by federally licensed importers and dealers to emotionally immature, or thrill-bent juveniles and minors prone to criminal behavior \* \* \* ; Now, therefore, be it

Resolved, That the International Association of Chiefs of Police urges the Congress of the United States to enact Senate Bill 1592, 89th Congress, or similar legislation which would amend the Federal Firearms Act to prohibit in connection with commercial transactions in firearms, the shipment of firearms in interstate or foreign commerce except between federally licensed manufacturers, importers, and dealers; to restrict the sale of handguns to the residents of the state where purchased; to limit the unrestricted volume of imported surplus military and nonsporting weapons; to prohibit sales by federally licensed dealers of shotguns and rifles to persons under 18 years of age, and of all other caliber weapons and other highly destructive military-type devices; and to provide adequate licensing standards to assure that Federal licenses to manufacture, import or deal in firearms will be issued only to responsible citizens engaged in bona fide licensed businesses.

IACP Annual Convention, 1966

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#### NATIONAL ALLIANCE FOR SAFER CITIES

The National Alliance for Safer Cities, Inc., representing 65 national and regional organizations, believes the time has come for effective state and federal gun control. We support the position of the U.S. Conference of Mayors that legislation should be passed to ban the manufacture, sale, importation, and possession of handguns, except to the police, military, and licensed pistol clubs.

Executive Council Resolution  
June 26, 1975

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#### NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

The National Association of Attorneys General supports the enactment of restrictive and reasonable legislation applicable to the importation, sale and transfer of all firearms, including rifles and shotguns.

Statement of Mr. Frank Bailey,  
Secretary-Treasurer



## NATIONAL ASSOCIATION OF COUNTIES

NACo supports the enactment of appropriate federal, state and local legislation which would strengthen criminal sanctions relating to the illegal possession or sale of firearms. NACo further supports legislation providing for mandatory prison sentences for the use of dangerous weapons in the commission of a felony. In addition, legislation designed to prohibit the possession of firearms by persons who have been finally convicted of a crime of violence, fugitives from justice, mental incompetents, drug addicts and persons while adjudicated habitual drunkards, should be enacted.

American County Platform, 1974-75

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NATIONAL CONFERENCE OF STATE LEGISLATURES, INTERGOVERNMENTAL  
RELATIONS COMMITTEE

It is recommended that in addition to supporting criminal justice programs and the efforts of law enforcement officials that we should also support the protection of the lives of policemen who often find themselves confronted with handguns. The Federal government has banned the importation of Saturday Night Specials and some legislatures have already acted to ban the manufacture, sale or possession of handguns.

The Intergovernmental Relations Committee of the National Conference of State Legislatures recognizes that handguns are commonly the tools of criminals in the commission of homicides, assaults, and armed robberies. It is further recognized that our nation's law enforcement officers constantly find their lives and the lives of the citizenry in danger.

The Intergovernmental Relations Committee of the National Conference of State Legislatures urges states to enact and enforce penalties for the commission of a crime with a handgun or the illegal possession of a handgun.

The Committee further supports the President and Congress in their efforts to ban the interstate and international manufacture and sale of handguns commonly referred to as the Saturday Night Special.

Adopted by the Intergovernmental Relations Committee  
National Conference of State Legislatures  
August 16, 1975

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NATIONAL COUNCIL OF JEWISH WOMEN

In March of 1971, the delegates of the Biennial Convention of the National Council of Jewish Women adopted a resolution to encourage public understanding of the need to regulate sales, licensing and registration of firearms, ammunition and explosives, and to work for such legislation.

In June of 1972, the National Executive Committee adopted a topical statement urging "... the Federal Government, both the Executive and Legislative branches, to act now to establish a national firearms policy which would require the licensing of all legitimate owners and users of firearms. We urge also that minimum Federal standards be established as guidelines for the control of firearms in the States." This statement was entered into the record of the House hearings.

Topical statement adopted by National Executive  
Committee, 1972

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NATIONAL COUNCIL ON CRIME AND DELINQUENCY

1. NCCD believes that the criminal use of guns is a problem which falls within its purview.

2. In an effort to help find a solution which would avoid depriving private citizens of legitimate use of firearms. NCCD will continue to develop information on the relationship between guns and crime and attempt to get specialists in the field to do likewise.

3. In response to pleas of the National Commission on the Causes and Prevention of Violence that more research will be undertaken in this area NCCD's Research Center will seek financial grants for research projects in an effort to develop new knowledge.

4. NCCD will cooperate with other organizations in developing means of reducing crimes committed with guns and will urge the Department of Justice to undertake such research or to sponsor it.

Adopted 1971, Board of Trustees

#### NATIONAL DISTRICT ATTORNEYS' ASSOCIATION

The National District Attorneys' Association favors the adoption of legislation to prohibit the manufacture and sale of the cheap, poorly constructed handgun commonly referred to as the "Saturday Night Special."

Testimony before the Senate Subcommittee  
To Investigate Juvenile Delinquency, 1971

#### NATIONAL SHERIFFS' ASSOCIATION

The National Sheriffs' Association three years ago adopted a resolution calling for mandatory sentences for persons convicted of crimes in which a firearm is used, independent of the sentence they may receive for the specific crime.

Per Truman Walrot, Assistant Director

#### UNION OF AMERICAN HEBREW CONGREGATIONS, COMMISSION ON SOCIAL ACTION

An examination of the latest statistics on murder (1973) led us to several important conclusions. The fact that 25,000 people are killed by guns each year in the United States demands that we take immediate and effective action. The fact that 53 percent of all murders in the United States are committed with handguns forces us to focus our attention and concern on this most dangerous, concealable, and accessible weapon. The fact that 71 percent of murders committed in this country occurred among people who knew one another, that a large percentage of the 10,000 suicides each year are by handguns, that 73 percent of all murders have never broken the law before, lead us to conclude that the answer is not just preventing "known criminals" from possessing handguns or assigning longer sentences to people who use guns. Such actions would not be sufficient to appreciably change the statistics above, since it wouldn't affect those people who murdered in a moment of passion or by accident. Finally, the fact that there are more people murdered in the United States every 39 hours than are murdered in Great Britain each year, where there is stringent and effective control of handguns, shows us the efficacy of proper legislation.

In Jewish tradition, the sanctity of human life is a primary value. In an increasing impersonal and alienating society, the dehumanizing of the human being and the carelessness with which human life is taken stands in direct violation of these affirmations of our tradition.

The Bible commands us, "Thou shall not Murder." The Talmud teaches us that "He who takes one life, it is as though he has destroyed the universe, and he who saves one life, it is as though he has saved the universe."

The Commission on Social Actions supports the recommendation of the National Commission on the Causes and Prevention of Violence that will eliminate the manufacture, advertising, and sale of handguns except for limited instances where the public order is involved. These exceptions would be exceedingly limited and would include the military, police, security guards and pistol clubs, where they would be kept under secure possession.

April 1975

## UNITARIAN UNIVERSALIST ASSOCIATION

Be it Resolved, That the 1972 General Assembly of the Universalist Association recommends uniform gun legislation as follows:

1. Licensing for the purchase and possession of all usable guns.
2. Gun registration holding owners legally accountable for all their guns and registrars legally accountable for privacy of records.
3. Federal, State, Provincial and local codes for responsible gun ownership regarding how they are kept, knowledge of proper use and to whom they may be transferred; and
4. Sound standards for the responsible use of guns by law enforcement agencies.
5. Restriction of ownership and possession of concealable handguns to persons showing a specific need, such as law enforcement officers and security guards.
6. Strong legislation forbidding use of "drop guns" by law enforcement officers.

Adopted by greater than a two-thirds vote of the Eleventh General Assembly of the Unitarian Universalist Association, held in Dallas, Texas, June 3, 1972

## UNITED METHODIST CHURCH, BOARD OF CHURCH AND SOCIETY

In an increasingly complex and urbanized society, it is impossible to protect life and maintain public order when individuals have unregulated access to firearms. Therefore, the Church records its support for the licensing of all gun owners and the registration of all firearms. Licensing provisions should require adequate identification of gun owners and provide basic standards with respect to age, absence of mental illness, and lack of a serious criminal record. These and other objective standards should be applied in determining the denial of any license. Reasonable and effective state licensing and registration provisions should be required by federal law. If states fail to act within two years to provide adequate measures in accordance with federal standards, then federal licensing and registration provisions should apply.

In accordance with the recommendations of the National Commission on the Causes and Prevention of Violence, we endorse the elimination of private ownership and use of handguns, except in extremely limited instances.

We deplore the killing and injuring of police officers by citizens, however serious or legitimate their grievances may be. We must also be cognizant of the fact that for every law enforcement officer murdered in the line of duty, police killed fifty persons under cover of law, and in too many instances, these were unnecessary and unwarranted. We therefore not only call for the tightening of legal control over citizen ownership of firearms or of guns, but we also call for the formulation of more clearly defined, written firearms policies by every agency of law enforcement in the country.

The Book of Resolutions

## UNITED STATES CONFERENCE OF MAYORS

Whereas, over 8,000 Americans were felled by handguns in 1970 and nationally 80% of all homicide victims knew killers as a relative or friend; and

Whereas, 95% of the policemen killed in the line of duty between 1961 and 1970 were felled by handguns; and

Whereas, gun dealers today sell to the mentally ill, criminals, dope addicts, convicted felons, juveniles, as well as good citizens who kill each other; and

Whereas, those who possess handguns cannot be divided into criminals and qualified gun owners; and

Whereas, handguns are not generally used to sporting or recreational purposes, and such purposes do not require keeping handguns in private homes; and

Whereas, the United States Supreme Court ruled in 1939 that firearms regulation is not unconstitutional unless it impairs the effectiveness of the State militia. Now therefore, be it

Resolved, That the United States Conference of Mayors takes a position of leadership and urges national legislation against the manufacture, importation, sale and private possession of handguns, except for use by law enforcement personnel, military and sportsmen clubs; and be it further

Resolved, That the United States Conference of Mayors urges its members to extend every effort to educate the American public to the dangerous and appalling realities resulting from the private possession of handguns, and that we urge the Congress to adopt a national handgun registration law; and be it further

Resolved, That (i) effective legislation be introduced and approved by the states not having adequate legislation to that effect; (ii) the proposed legislation shall provide for the registration of all firearms; (iii) state legislation shall require all citizens interested in carrying a weapon to obtain a license after showing just cause and good conduct; (iv) federal legislation shall provide, in addition to existing restrictions, that any person not having a state license to carry a firearm shall commit an offense for transporting such in interstate commerce.

Adopted June 1972



SECOND NATIONAL FORUM ON HANDGUN CONTROL PROCEEDINGS

UNITED STATES CONFERENCE OF MAYORS

Boston, Massachusetts--January 7-9,1976

GENERAL SESSION

"A Review of Congressional Action"

Welcome

John J. Gunther  
Executive Director  
United States Conference of Mayors

Robert Kenney  
Director  
Boston Redevelopment Commission

William R. Drake  
Director, Handgun Control Project  
United States Conference of Mayors

Panel Discussion

Joseph D. Alviani (Moderator)  
Associate Director, Handgun Control Project  
United States Conference of Mayors

Lawrence Bailey  
Assistant Executive Director  
United States Conference of Mayors

John Rector  
Counsel  
Senate Subcommittee on Juvenile Delinquency



MR. DRAKE: Good morning. My name is Bill Drake. I am the Director of the Handgun Control Project, U. S. Conference of Mayors. With us at the table this morning are the individuals who are going to help us get started in the Second National Forum on Handgun Control. We hope this will be a very extensive and effective follow-up to the First National Forum held in Los Angeles last May. First, I'd like to introduce, representing Mayor Kevin White, who at the last minute was unable to be with us, Mr. Robert Kenney, the Executive Director of the Boston Redevelopment Commission.

MR. KENNEY: It's always a pleasure to welcome the U. S. Conference of Mayors to Boston, and especially on a subject as weighty as handgun control. Kevin apologizes that he couldn't make it today. We are fortunate, in Massachusetts, to have a preeminent spokesman on handgun control in Judge John Fox, and he is here representing us today and we feel that our thoughts in Boston and our thoughts in Massachusetts are in good hands. We welcome you and we hope you have a successful meeting. Thank you.

MR. DRAKE: Thank you very much, Mr. Kenney. We are delighted to be in Boston. With me is Mr. John Gunther, the Executive Director of the U. S. Conference of Mayors. Mr. Gunther has been the Executive of the Conference since 1960 and is considered the major spokesman nationally for the mayors and for the needs and interests of cities. I'd like to introduce John Gunther, who will formally open the meeting and bring to you some comments of his own. John.

MR. GUNTHER: Thank you, Bill. Mayor Tate, ladies and gentlemen. The Conference of Mayors is the convenor of this Forum, but it's your Forum. Most of you are like I am, a staff person, or someone assigned by somebody else to look after this important matter. And, therefore, the whole idea of this meeting is to work out how we move from where we are to where we have got to be before Congress adjourns this year. Now, I know most of us are 501(C)(3)'s (tax exempt status) and we can't lobby. Therefore, we must talk about an educational campaign. We are where we are today because many of you have been doing your work up to this point. But I think it is clear that we are not going to go beyond where we are unless we do more than we have done. And that means you and me and everybody else.

The Conference of Mayors up until about 1962 or '3 sort of operated by consensus. We, if we weren't 90 percent in agreement, didn't do anything. But life was too complicated to live in that luxury; and unfortunately I happened to come along about that time and they decided if a majority was for something, we were going to be for it. And we got into all kinds of controversies. I find it much more stimulating than just doing those things that we all agreed to do. But it took some leadership to get on an issue like handgun control, to take a strong position. I think that the polls show that the great majority of the people are sensitive to the problem and support sensible handgun control,

and strong handgun control. But politically the people who support sensible things don't necessarily all go out and vote on those issues. People who are against handgun control are much more likely to go to the polls on Election Day and vote on that issue alone.

One of the problems in Congress is that its members are now, I think, resigned to the fact that they must do something. But something to them just means passing a title. I recall very well Lyndon Johnson, when he was a Senator from Texas, wasn't exactly in favor of civil rights legislation, and he was the Majority Leader. Some of us were supporting civil rights legislation, and in 1957 we had the Civil Rights Act. Lyndon Johnson and some of his friends on the floor moved to strike everything but the enacting clause, and so we passed the Civil Rights Act of 1957 and if any of you know anything about the Civil Rights Act of '57, all it is is the Civil Rights Act of '57, there's not a damn thing in it. It seems to me that the House Judiciary Committee is engaging in the same exercise. So I think we have our work cut out for us.

I think that the biggest thing is to expose the fact that all the Congress is doing is saying a prayer. Now, I'm not against prayer, but I believe a little action helps the prayers along. The biggest thing we have got to do now is achieve outreach. I make it a point when I get out to try to see what newspapers people have in their homes - particularly people like plumbers and electricians. They have their union newspaper. They often have the church newspaper. And those are the places the editorials on handgun control have to be placed. Most of these organizations are with us. Most of the unions are in favor of sensible handgun control regulations. Now we need editorials in those trade journals because those are the publications they read from the back to the front and the front to the back. So we really must start building an information flow into every publication that is being published in America. There are thousands of them that are much better read, much better followed, much more listened to or paid attention to, than the daily newspapers, the big daily newspapers.

I think if the Congress doesn't pass handgun control measure, a strong one, this year, it is going to be derelict in its duties. And that won't be the first time the Congress has been derelict. However, one of the problems we are going to have is the President. The Attorney General and the head of the FBI are very much in favor of strong handgun control. I don't think anybody could serve in those posts conscientiously and not be in favor of such legislation. These two gentlemen, however, are part of a team. The team is headed by the President, who, I think, has probably made the strongest statement he is going to make, at least before the election, on handgun control. Ronald Reagan scared the pants off the man and he's been running around without pants for several months. So it does not appear that we are going to get a lot of help out of the Administration. I just get a feeling from trying to find out what they are doing that they would just as soon nothing happen, at least they won't talk about it until after November.

Let me speak a little about how the U. S. Conference of Mayors got to where we are. My people, the mayors, are very sensitive to public opinion.

They watch polls and that is how they get elected. We didn't have a position on handgun control or handguns for quite a while, and when Mayor Tate of Philadelphia was President of the Conference, Mayor Daley got a resolution through the Chicago City Council and brought it to the attention of the Conference of Mayors. We adopted it as our position. We have a procedure in the organization that once we adopt a policy, it is our policy unless somebody changes it. There have been some attempts to back off from this position in the last four years, all of which have been successfully beaten back. But I was interested in seeing a test of just how local officials do feel on the issue again, and we had that test in December down in Miami Beach. The National League of Cities, which represents all the cities in the country - 15,000 cities from populations of 10,000 to eight million was faced with a attempt by the gun toters from suburban Michigan and other places, some of the Wallace supporters, to repeal the half-way decent position that the League had had on this issue. Needless to say, there was a big debate. I saw Bill Drake's hair getting grayer because he was pacing around back there; he looked like a lion in a cage. After much debate, it was very, very soundly defeated.

Lately, I've been trying to figure out why Congress at the end of the session decided to do nothing. There seems to be a disagreement among those in favor of handgun control as to whether we could have done better by getting legislation in '75 or whether we will do better by getting legislation in '76. As a long-time legislative educational expert, I always say get it when you can. But since we didn't get it last year, let's get it this year. The pressures from the leadership in the House and Senate to do something to get handgun control out of the way are very great. Therefore, the House subcommittee had to report something, and the Senate committee must report something. I don't believe any of them wants to vote on it next September or October, so I don't think we have a long fight this year. I think we have a short one, but it's got to be intense, and that's what you are here about today.

I don't agree with those people who say that local efforts, city efforts, and state efforts, are a waste of time. I don't think they are the bottom line of effective handgun control, but I do believe they have some value. They set a climate, a pattern. If there is something in your state legislature or in your city council this year, therefore, I would urge you not to say, "Well, we are working on the national scene; we are not going to fool around with this one." That's wrong. I believe that one of the best ways to get handgun control legislation through Congress is to have several states and a lot of cities adopt it. That's how we got most of the social legislation that we have in this country. But at the same time if you don't figure out here how to get this word out, how to work through the other organizations, you are all in something other than what the people sent you here for. We must mobilize to achieve anything more than an enacting clause. I believe that we deserve more than that. Thank you very much.

MR. DRAKE: Thank you, John. I think that gives you some idea where the organization has been over many years and, in brief, where many of us in this room have been since perhaps a year ago, even as little as six months ago. Those of you who were with us in Los Angeles at the First National Handgun

Control Forum remember that we stated the objectives there were: first, to educate and inform the people who were concerned about the issue; and second, to begin an effective educational effort. Based on what happened after L. A., I think it is fair to say that the progress was rapid. I think we have seen that there has been a greater growth in public understanding than any of us would have expected. And there's been considerable action at the policy levels at the federal, state, and local sectors of government. Today, at our Second National Forum, we want to build upon that educational thrust and begin to act, as John Gunther has said, and to talk more about how to do what it is we have to do. So today, in much the same informal setting with a lot of interaction and dialogue, we want to look at a variety of issues, first reviewing the current status of legislation at the federal level with our panel this morning, then going beyond that to look at other approaches to handgun control that aren't so dependent upon federal action.

To me that answers the second question I want to bring to you: why are we in Boston? I think we are in Boston because in Massachusetts today there is the most dramatic effort we could see of a nonfederal initiative that promises to have great success in introducing strong handgun controls at the state and local level regardless of what happens at the federal level. This afternoon several small workshops will feature experts in several aspects of organizing, developing, and strategizing to work closely with you in an informal setting to bring about what we have to do and how we can best get there. Briefly, that is the design of this Second National Forum and I hope it brings to you the kind of information and interaction that meets your needs, and we will be working with you for the months and perhaps years after to see where it takes us. Now, I'd like to introduce our panel this morning by asking Joe Alviani to take the podium. Joe Alviani is the Associate Director of the Handgun Control Project.

MR. ALVIANI: You will be worked very hard for the next two days. The Forum is intended to give you the kind of technical assistance and information which many of you left the Los Angeles forum thinking you still needed. I hope that during the course of these two days we will learn as much from you as you may be able to learn from some of the experts that we have been able to draw to this meeting. This is the first working session of the Forum. It was designed to review Congressional activity on handgun control. More than simply an exposition of what has and what will likely occur in the Congress, we intend that this session deal with why it has happened and why it might happen. We are confident that the panelists will candidly address those issues and the kind of pressures and influences which bore on that Congressional activity. Furthermore, we hope this initial session will place the entire Forum into a very useful perspective. Emphasis on state and local strategies in no way means an abandonment of our efforts to achieve strong national legislation. In fact, the opposite is the case. A more determined federal campaign will be undertaken during the coming year by our organization and many of your own.

What we do believe, however, is that on this issue many state and local initiatives are far ahead of the federal efforts. It is a necessary corollary to any national legislation to have a strong and effective state and local commitment, since whatever that federal legislative direction is, the primary responsibility for enforcement is going to lie with states and localities. We

are very pleased and happy to have with us today two people who worked very closely with the legislative process during the 94th Congress. Larry Bailey, an Assistant Executive Director of the U. S. Conference of Mayors, assisted the Conyers Committee in the House and has a very insightful knowledge of what went on and what kinds of pressures bore on that committee's activities. We also have with us John Rector, who is Counsel of the Senate Subcommittee on Juvenile Delinquency chaired by Sen. Birch Bayh. That subcommittee, in addition to its myriad jurisdictions, also has jurisdiction for handgun control legislation. I hope we have a useful session; after Larry and John present their positions, we will then open for questions and answers. Larry.

MR. BAILEY: Thanks, Joe. I don't know how insightful I'll be, but let me just begin to take you through some of the activities and developments which occurred in the 94th Congress on the House side since it convened. Certainly when the 94th Congress did convene, most of the people who were the proponents of strong handgun control measures were encouraged by two or three developments which had occurred in the makeup of the Congress. First, the Democratic Study Group, a group of 75 or 80 liberal freshmen Congressmen, came on board and attempted early to assert itself; and many of these young freshmen Congressmen brought with them long experiences supporting strong handgun control measures from their jurisdictions. We were certainly encouraged by the potential of many of these youngsters getting involved in and assert themselves with the leadership. Second, the appointment of Congressman Conyers as Chairman of the Subcommittee on Crime was also a plus because he had been a long-time advocate of strong handgun control measures and had pledged in his early statements to work diligently to seek legislation that would all but ban handguns from private possession.

It also seemed early on that the Congress would finally take into consideration the demands and cries of the individual citizens to move forward with aggressive leadership and enact strong handgun control legislation. We thought that that public support would certainly weigh heavily on the decision and actions of the Congress. I think we were further encouraged, frankly, when the Subcommittee began its initial set of hearings and the opening remarks at those hearings. With one exception, each of the seven members came out strongly, very strongly, indicating that he would support some kind of handgun control measure in the 94th Congress. The exception was Congressman Ashbrook of Ohio, who very early indicated he was not going to support any kind of handgun control measure.

These were in fact very extreme positions in the views of many people, beginning with Congressman Conyers calling for a total ban on the manufacture and sale and possession of handguns and making exceptions only to law enforcement officials and the military. That kind of proposal was also articulated by four or five other major Congressmen during the course of the opening remarks. One of the very first things that virtually everybody did agree on was that the Gun Control Act of 1968, with its numerous loopholes, had done very little to curb the flow of handguns or make it even difficult for the purchase of handgun parts or ammunitions as it had originally intended. In fact, some of the numbers and statistics that were presented to the Subcommittee by early witnesses showed that there had been a noticeable



increase of some 200 percent in the number of licensed dealers since 1968. The handgun industry had grown in leaps and bounds. Private citizens throughout the country had taken to arming themselves against intruders. And in many of the economically deprived areas of the country private citizens felt that they were out of necessity having to arm themselves against people being paid to protect them, namely law enforcement officials themselves.

When the Subcommittee began its work, about 10 significant proposals were advanced. The one that got the most attention in the early days was the Bingham bill which embraced the Conference of Mayors' position calling for the total ban on the manufacture, sale, and possession of handguns, with the exception of law enforcement officials, the military, and licensed sportsmen's clubs. Congressman Bingham added to that particular bill an interesting provision which called for tax credits for those citizens who wanted to simply turn in their handguns. This was intended to provide an incentive to rid the nation of the existing stockpile of handguns. There were measures specifically that dealt with minimum mandatory sentencing for firearm offenses. That movement began to pick up steam and establish a momentum in the Congress. It became very clear that whatever legislation emerged from the Congress, the notion of having mandatory sentencing attached was going to be a reality. On the Subcommittee, the first proposal that was introduced by any of the members was the McClory proposal. Congressman McClory, the ranking minority member from Illinois, introduced his handgun bill calling for strict licensing and registration, for the establishment of a national tracing center, and for a ban on Saturday Night Specials. Let me just get back to that in a minute because that created all sorts of problems on the Subcommittee.

Interestingly, the structure of the hearings was, I think, somewhat different than it's been in the past in that the chairman pledged to be more investigative in his search rather than just deal with the various legislative proposals. He began to call on some of the Treasury officials. He got very enlightening testimony from the officials from ATF and they candidly indicated to him the difficulty that some of their agents had had in tracing handguns, particularly when there had been multiple sales involved.

The Chairman then conducted a series of regional hearings where he began to pick up the same kind of information from people in the field. Many of you here today participated in those regional hearings.

After about six months of field hearings and hearings in the Congress, the Subcommittee decided to go into mark-up; and it was interesting as they began because it had become very apparent after about six months that Congressman Conyers was in the minority. He was the only member of the Subcommittee that wanted the total ban position, and it was very clear that no one else was going to support that position.

Interestingly, though, the ranking minority member again attempted to push through the Subcommittee his position on licensing and registration. The mere fact that that was coming from the ranking minority member led us to conclude that the Subcommittee Democrats were certainly not going to buy that, although many of them embraced the principles that Congressman McClory had in his bill.

The very first vote on the Conyers bill occurred in early November, and that vote was six to one against a ban. The Subcommittee took its first vote after Mr. McClory and Mr. Ashbrook and Mr. Mann, in particular, insisted on some sort of vote. The Subcommittee, after about 10 days of mark-up, was actually floating around, not really heading in any direction. There was no Subcommittee print. There was no particular bill that in fact was a key bill. They had simply dealt with the Conyers' bill and they were attempting to mark up three bills at the same time, which was really annoying, even to Democrats on the Subcommittee. Congressman McClory seized the defeat of the Conyers' bill to substitute his entire bill. That measure, too, was voted down six to one. The newspapers picked up those defeats and stories went out across the country that the Subcommittee was not going to move this year on handgun control. I think the Subcommittee actions were misunderstood. Essentially, the vote against the McClory proposal was a vote against an amendment to the Conyers' bill which no one wanted in any case. It appears now that it was a tactical error on the part of Congressman McClory -- one that created a lot of friction on the Subcommittee.

After that vote there was a lot of disenchantment even among some of the staff members as to the direction of the Subcommittee and where they were going to go in the middle of mark-up. As John will tell you, the Senate was getting nervous because they had indicated to the House that they certainly were not going to move until the House took some action. So the Subcommittee was really in a quagmire for a couple of days. Finally in the last hours prior to the Thanksgiving recess, with pressure from the House leadership, the Subcommittee decided to report out a bill about two days before the Thanksgiving recess. It was a general effort to tighten up the '68 Act. There were some limited licensing and registration requirements; there was no ban on Saturday Night Specials. It created a national tracing center, it provided for minimum mandatory sentencing, and mandated a waiting period prior to issuance of a license.

Following that vote, any number of Congressmen, particularly the people who supported the strong position, began to lose hope in what was going to occur in the Congress this year. Congressman Rodino, though, did pledge that his full Committee would take up that bill as quickly as possible and attempt to strengthen it. I met yesterday with Earl Dudley, the counsel from the full Committee, and he indicates that in the final week in January or the first week in February, the full Committee will begin mark-up of the bill reported out of the Subcommittee; and the chances are, at least their prognosis is, if nothing else, they will put back onto that bill a ban on the Saturday Night Special. Let me just stop here because I'm sure there will be some questions about where I think the Congress is going to go. I'd rather just hold that off until later on and let John make some comments about what occurred in the Senate.

MR. RECTOR: Early last year it became quite apparent in both the Senate and the House that a healthy in-depth inquiry into the efficacy of the 1968 Gun Control Act would be undertaken. It was of special interest, I think, since it was initiated without the impetus of an assassin's bullet, as had been the case in earlier years when the inquiry was undertaken. A primary factor, however, that helped to bring to fruition what did occur in the Senate was the involvement of the Ford Administration in the area of gun control. Ford, in

June of this year, did introduce a handgun control bill. I don't want to indicate that we were in any way, shape, or form fully satisfied with the parameters of that bill. But I think it is important to put them on the road map so as to provide the proper perspective to understand what pressures have led to the results in both Houses. It took the President a bit of time to find a sponsor for his bill, however. I think he announced support for such an approach in June and it was mid-July until he found, I found, Sen. Fong and a couple of others who were willing to bail him out. The leadership on the Judiciary Committee, Sen. Roman Hruska and Sen. Scott of Pennsylvania, both declined to even introduce the President's bill on request. On request would be as a courtesy, but not necessarily indicating support for the measure's provisions.

I think that context is important to us to understand what did happen, because without some interest expressed on the part of the Executive, it is extremely difficult to move in the area of gun control. Witness our hearings in the fall of '71. We had lengthy hearings on handgun control - we heard from chiefs of police and the mayors groups - and it all ended on a very somber note that we didn't have but a couple of votes for any bill. It was only the Wallace shooting in mid-May of 1972 that provided the impetus that permitted us the next day to report a bill. In the summer of '72 after about a three month period of negotiations with the respective senators in the Senate, we passed Bayh's bill by a vote of 68 to 25. I know in this particular company that the bill that was passed would be viewed as a rather modest one, as would various provisions of the bill we recently reported. I would like to note in spite of that perspective, there was no small accomplishment to obtain passage in '72 of that modest measure. It took a lot of hard work. It took endless sessions of negotiation. The House of Representatives took a fairly short look at it and went home to get re-elected. That activity in '72 has in an important way influenced our Committee's perspective, and Chairman Bayh's, on the topic of gun control. We deferred this year to the House Subcommittee with the posture that we would not take the gun bill to the floor. In fact, we would not report a gun bill to the Senate Judiciary Committee, of which we are a constituent, unless the House could indicate to us a bona fide activity in the direction of improving the area of gun control.

In light of this perspective, our reading of what happened in the House is a little different than the perspective Larry has set out. We haven't really been able to fathom precisely what happened in the House, or at least the why of what happened. Early on Chairman Conyers had expressed, at least tentatively had expressed, a strong support for the licensing-registration approach. That position had sent out cues to various members of both Houses who have a strong interest in gun control as to where the action would be, at least from the perspective of the liberal community in the House. In fact, I know that bills, substantial bills, were drafted in both Houses in an attempt to replicate what they interpreted to be Conyers' intentions. However, over the course of the summer and culminating in September, the Chairman of the House Subcommittee took a perspective not supporting licensing-registration, but emphasizing the need for the total ban.

I think it is important to understand that in terms of what did happen last year. There wasn't a ringing of the bell last January or February in

support of a total ban. That was something that came through the course of the Conyers hearings and the chairman's examination of the various factors. But what it did to us was to substantially set back the game plan. We had anticipated that by early September at the latest there would be on the floor of the House a fairly substantial gun bill, and that our scenario would be to be one step behind. We would at that point have a bill in the full Committee. By late November there would have been passage of some measure in the House that would have permitted consideration in the Senate before the Christmas recess. I think it is interesting to note that in the first session of Congress, the focus has been almost exclusively on handguns. I think that's a rather dramatic change from the consideration that took place in 1972. Sen. Kennedy's bill in '72, Stevenson's bill, and others, focused on rifles, shotguns, and other firearms. But the discussion this year, with just several exceptions, has been on the handgun and various perspectives on the handgun. As I noted Mr. Gunther's reference to the good folks out in Idaho, it just brought to my mind the full parameter of attitudes on the topic of gun control. I am not as certain of Sen. Church's perspective, but the McClure perspective is to repeal the 1968 Gun Control Act. We have on our Committee, in addition to Sen. Bayh, Sen. Hart, who just indicated a very active long-term commitment to banning the handgun with the appropriate sections that the U. S. Conference of Mayors also supports; Sen. Kennedy, long-term supporter of licensing and registration of handguns and a ban on the easily concealed handguns; Sen. Burdick (D-N.D.) Mac Mathias; Sen. Fong, who graciously introduced, as I indicated, the President's bill after some delay of not being able to find sponsors for it; and Sen. Roman Hruska from Nebraska.

I heard a comment earlier that seemed to indicate that if the Administration would get off its duff on the issue of gun control, we could all make a lot of progress. I wish that that was really the case. Unfortunately, at least in the Senate, there are Republicans, Democrats, Conservatives, those not so conservative, who agree with President Ford regarding anything other than the most modest of gun control. In candor I think we should note that it is not really a question of some right-wing Republicans who are sitting and preventing the progress of gun control in the Congress. I know in talking to politicians throughout the country, in state legislatures usually speaking with folks of a liberal variety, many of them fail on this issue; that we get advice from those all around the country regarding my boss and other members of our Subcommittee to get them off that damn gun control issue because it is an election year.

Another difference I'd like to point out that seems to be apparent between the House approach and the Senate approach, at least on the committees that are involved, is that we are more willing to share the credit for whatever we undertake in this area with Democrats, Republicans, Conservatives, not so Conservatives. We don't seemingly engage in the same tug-of-war as reflected in the House when Congressman McClory introduced an approach involving licensing and registration. It appeared the Democrats weren't going to participate in such a bill if they didn't have their name on it and there wasn't a Democratic sponsor. I'd say in our Committee we'd be willing to "share the credit" with as many people as possible. I don't know if that indicates wider support in the House for gun control than in the Senate, but

it's surely a difference in approach. I'm particularly interested in responding to questions that people have and I don't want to take much more time. But I think I'd like to express again it is not just the George Wallaces or the Gerald Fords or the ... I wouldn't want to liken them as the Neanderthals, but there are Neanderthals that are involved in this issue. It is not just those folks, because if it were just those folks, we would have made a lot of progress a long time ago.

MR. ALVIANI: I'd like to thank both John and Larry. I think some of the points John raises emphasizes the reasons we may have had false expectations and misconceptions about the so-called liberal Congress and what they might do on gun control. We find more and more as we get into this issue that it is really not a right-left, right- wrong, black-white, liberal-conservative issue; but that it runs across all of those lines. I think it's really important that we begin exploring some of the pressures that may have created the kinds of legislation that came out of the Congress. I am going to start off the questioning simply because there is something that John raised during the course of his presentation that I think needs a little amplification.

A number of strong handgun control groups had a flurry of excitement when Senators Javits and Percy introduced their comprehensive handgun control legislation, since they framed it in a way that part of the jurisdiction of that piece of legislation would go to the Government Operations Committee and not simply to the Judiciary Committee. The feeling among us was that this was prompted by a disenchantment with the activity of Sen. Bayh's Subcommittee and that a more effective avenue was Government Operations. I would like to know, John, whether you could explain what may have prompted that action and what your reaction was toward it.

MR. RECTOR: I think members of Government Operations Committee believed because of the constituency of the Judiciary Committee, that the type of progress that they would like to see in the area of gun control could better be obtained under the aegis of the Government Operations Committee. We didn't share that perspective. I think a close look at the voting records of the members of both those Committees, particularly in '72 which was the last time they really had to vote in a serious fashion on gun control, would indicate that perhaps there is a vote difference. But as Sen. Bayh would stress, what really counts is the votes on the floor.

I think also there is a difference in attitude between Sen. Bayh on the one hand, and Sen. Ribicoff and Javits on the other hand, in terms of what it is to deal from a position of strength. I know Sen. Javits and Percy testified before us in October and Sen. Javits indicated to Birch Bayh that he felt it was important to deal from a position of strength.

What he meant by that was it is more important to support something closer to a ban than what we were supporting. Sen. Bayh's response to that was that we are dealing from a position of strength and the last time that the other perspectives were dealt with in the Senate, they obtained votes of seven and eleven.



MR. CONBOY: I am from Sen. Javits' Office and work with him on the Government Operations Committee. I wanted to agree substantially with what John said. The initiative from our Committee was not really predicated upon a disenchantment with Sen. Bayh or the rest of the Committee so much as it was a general frustration that we have felt, as we all have, including the members of the Judiciary Committee, about this issue. Our objective was to open up the second front, a new front with a new Committee, with strong support of Sen. Ribicoff, who is our chairman. I think that we have tried to do that and we'd like to discuss with you how we can continue to broaden that base in the Senate. That was our objective.

MR. ALVIANI: Questions?

A VOICE: I just had a technical one. What stipulation of the bill put it into Government Operations? I mean there is a stipulation in the Percy-Javits bill that permitted it, part of it, to go to the Government Operations Committee?

MR. RECTOR: There are two bills. The one bill is the substantive bill that amends the 1968 Gun Control Act. That bill was referred to our Committee. The other bill changes the jurisdiction for the administration of the Gun Control Act from the Treasury Department to the Justice Department. It was that aegis that was used to obtain jurisdiction in the Government Operations Committee. Incidentally, I think we are persuaded that the Treasury can do at least as good a job as the Justice Department.

MR. CARVER: My question is to both Larry and John, and the answer may be painful. If the Hart-Bingham bill were ever to reach the floor of the Senate and the House, what kind of vote would it actually muster, just in numbers of heads?

MR. RECTOR: I really hate to speculate about that. I know what it mustered in '72 and I would imagine that it would do a bit better now. If you look at the Harris Poll that was just released on the 29th of December, a nationwide poll of 1,500 individuals, I think it indicated a 57-37 split supportive of elimination of private access to handguns with exceptions for police, military, sporting clubs, and what have you. So it's pretty much of a replication of the Hart-Bingham approach. I doubt very much that that same breakdown would be reflected in the Senate, but in light of that and a lot of other factors that have taken place, including activity of the groups represented here today, I'd say you'd do better than seven; but whether it's going to be 14 or 16 or whatever, I really don't know.

I can assure you that a lot of liberals in the Senate on a fairly regular basis say to my boss, "Let's not approach this one until we have our decks in order in the House because you are not going to take us through, Birch Bayh, what you took us through in '72 when we had to go home and face the electorate and the House took a walk."

MR. BAILEY: I think the Hart-Bingham approach would also meet with tremendous opposition in the full House. I think maybe the first indication will

be when the full Judiciary Committee takes up the bill again. There is some talk now about the reintroduction of the entire ban position by a few members on the full Committee. I guess I would agree with John that it is going to be very difficult, I think almost impossible, to muster more than a couple of dozen votes in the full House for that approach.

MR. CORBETT: The Bayh bill would ban the sale of Saturday Night Specials as defined in the bill. I'm wondering how the Senate grapples with the question: if a certain type of handgun, namely the Saturday Night Special, is so bad that its sale has to be banned, then why isn't it so bad that the others also should not be banned from possession? Or don't you think the Senate deals in matters of logic?

MR. RECTOR: As you well know, whatever the legislative body, the power of logic is not always the most persuasive. One thing I would like to clarify is the issue of Saturday Night Specials. It means a lot of things to a lot of different folks, and the provisions in our bill are very similar to provisions in the '68 Act regarding the importation of handguns. Now, under the aegis of that prohibition, the inexpensive handguns would clearly be prohibited, at least most of them; but in no way are the provisions of our bill solely limited to the inexpensive weapons. Cost is not a determinate factor. I think that if anything needs to be clarified about our bill, it is precisely the matter of price. The Bingham bill in the House, some of the others, and the South Carolina approach, take solely a cost approach or metallurgical temperature standard approach. The kind of weapon that was fired at George Wallace, however, was selling in '72 for about \$85 and with the inflation of the last few years, it's selling for \$130 now. It is clearly within the parameters of the bill that we reported from the committee.

We would not engage in class and economic discrimination legislation in our bill. It is one thing we want to clarify because there's been a lot of misinformation about that and there's been a growing tension, to say the least, between some members of the House Committee and Birch Bayh on that specific issue. He has a long record that would indicate support for everything but that kind of economic and class discrimination and it is not reflected in our bill. We would not support such a bill, and it was not reported from our Committee.

MR. ALVIANI: For the information of the people, the last question was from Jack Corbett and he is from the National Coalition to Ban Handguns. The question before that was John Carver, who is with the Crime and Justice Foundation here in Boston.

MRS. BLISS: (Friends Committee on National Legislation) I also got defeated in New Hampshire on this issue in '74. You talk about the fact that it doesn't matter if the Senators or Congressmen are liberal or conservative, black or white. Now, what does make the difference? Where is the pressure coming from? Have you done any analysis of why they vote the way they do?

MR. BAILEY: Let me just make one point that has been apparent to us during the course of the year. We felt very early that there was a tremendous

misunderstanding, and frankly a lot of naivete on the part of the Congressmen on this issue. For example, the issue of Saturday Night Specials. That's an example of widespread misunderstanding throughout the entire Congress on what the ramifications would be of a Saturday Night Special bill, from how it would be defined to what categories would be discriminated. I think if there is anything that seems apparent to us, it is two things: we have not seen so far any significant influence by the National Rifle Association on the actions of either the House Subcommittee or the Senate Subcommittee.

I believe there is a tremendous need for education; something that we agreed to do among our own member-Mayors. It is a process that really needs to take place in the Congress. There is a wealth of information that needs to be conveyed to the Congressmen on this entire issue. I can understand that it is difficult to understand why the House acted as it did, but they simply do not know in any large detail, I don't believe, what the support is for this kind of an issue. The only thing they see are the letters they get. They don't know what is possible. I think conversely, that the Senate simply does not understand the chaotic process that occurred in the House. Take a look at what is apt to happen, for example, at the full Committee on the House side. That lack of understanding will be prevalent again unless we get to do a job on the Committee members to try to explain to them the implications of various issues, and measures. I think the pressure right now must come from people who are prepared to launch that kind of education campaign.

MS. JACOBSON: (Committee for Handgun Control) When they had the Conyers Committee hearings in Chicago and Congressman Ashbrook was one of the members that was there, he seemed to actually be consulting with either NRA types or Illinois Rifle Association types: I mean getting right off the podium and coming down and conversing with them. When you say there was no pressure on these Committees, it seems ludicrous to me.

MR. BAILEY: Well, it does seem ludicrous, but the only member of the Subcommittee who did that was Congressman Ashbrook and he did that consistently. What that Subcommittee did was not influenced at all by the National Rifle Association. That is an absolute statement. The decision was based on a lot of other things, other than what the National Rifle Association was doing to the individual members.

MR. ALVIANI: I'd like to add a point to what Larry said. It is necessary to distinguish between someone influencing someone else and someone lobbying someone else. You know, over the course of the years an incredible amount of self-fulfilling strength and power has grown around this NRA. It becomes almost unnecessary for them to go back to the Congressman or to the Senators and say, "We oppose this" on every piece of gun control legislation. What our job becomes, then, is to try to start a process whereby Congressmen also know and get so familiar with the strengths and the positions of those people supporting handgun controls that we balance the momentum built up over the years by the NRA.

MR. RECTOR: I'd like to comment on that. Regarding the experience in Chicago, I would hate to be labeled as a cohort of the NRA because at a

Committee hearing I was seen speaking with a lobbyist from the NRA. I think I would be derelict in my obligation if I wasn't involved in discussing with them, as with other people, pending legislation. I would distinguish in a very gross way that kind of conduct from the kind of thing you are really concerned about. I don't believe that a vote, at least in our Committee and in the Senate, can take place without the NRA having a substantial impact on that vote. Like Joe stated, I think that impact can take place without them even making one phone call because of the aura that they have built up over the years and the inherent clout that they have, at least in an inhibiting sense. The NRA might not switch votes in terms of affirmative action, but they have an incredible impact, an inhibiting impact, an obfuscation impact, an impact that delays consideration. If you had asked us a couple of months ago what would happen in our House, we would have said, "Well, the NRA must have gotten to somebody because they have been sitting on their butts for a year."

It is in those areas that they exercise rather considerable influence without even making one telephone call. Let me give you an example of what they do, which is something you all can be very helpful with. Let's suppose a Subcommittee member writes a speech, statement, press release, what have you, on the topic of gun control. Let's suppose a Subcommittee member's staff person obtained from an educational campaign some literature that perhaps was not fully objective, and the Subcommittee member relied on that literature and incorporated it in a statement. That is your factual setting. This is what would happen. A member of the state pistol or rifle association or perhaps a Washington lobbyist for the NRA would visit that particular Subcommittee member and in very low keyed fashion indicate concern about the topic, a willingness to help the member understand more fully what the issues are, and then in a very neat way proceed to sandbag that member's staff person by pointing out inaccuracies, ways in which the statement is skewed to really stretch credibility.

There are a lot of people in the Senate who don't have the opportunity I have to work at least a third of the time on gun control. They run from one fire to the next. Gun control comes up, they run in, pick up a file, look through, say, "Oh, Christ," or some similar explanation, and they run in and they have to get the Congress member up to date. They call somebody like myself or Brian Conboy and say, "What the hell is going on with this thing?" A lot of the deliberation is on a shoe string. The problem is if people are not more objective or not objective in the information that is being provided, it is just a perfect setting for the NRA and like representatives to have incredible impact. What it does is undermine the Congress Member's confidence in the kind of work that is being done on his behalf. That can hurt you, that can really hurt you. The role that you all should play is to make sure that the education that is going on is truly objective. Because if you crank it up and skew it and lean in one direction, you are not going to gain anything because you can be sure that with more than \$4 million in a chest that doesn't even involve operating expenses, that the NRA are going to be there to make those clarifications.

MR. CONBOY: Joe, I just wanted to underscore what John said about the presence and the impact of their lobby. In our committee, the Government

Operations Committee, we don't have any illusions about it either. We have to deal with the reality of Senators and Congressmen who are uninformed about handgun control, about the different approaches. I would bet that there aren't five or six Senators who know in detail or substance what the different Saturday Night Special provisions are, how they impact, whether or not they would have any measurable effect in terms of local law enforcement. The point that John makes about being objective about these various proposals and about the honest prejudices that different groups may have is terribly important.

I think the educational part of this goes beyond just the public opinion and the question of moving the politics of this thing. It's a question of individual approaches to individual members of Congress through people in their districts whose opinions they are going to respect. I think the majority of the Members of Congress will listen to this. As I say, I think the developments we have had recently have been important in terms of breaking away gradually at some of the misconceptions and misinformation that we have had about the issue in Congress.

Sen. Javits has always supported a ban. It is not obtainable in this Congress. It is not. We tried that with Sen. Hart, as John mentioned, and got eight votes. So we always come back to the art of the possible, and we always come back to the need to build support for a major policy change built around public events as well as the hard work of groups like these.

MR. CLOUGH: I am here with Barrington Coughlin as representatives of the Gun Control Federation of Greater Cleveland. We have been around for six years working mostly in the local field on gun legislation. We have worked to some extent on the federal problems and with the state problems. And I endorse much of what we have heard this morning. I think these insights are very valuable. The whole picture would be completely impossible to understand if we didn't remember one fundamental thing which I don't think has been mentioned this morning: that the opposition is a very single-minded opposition. Almost everyone in this room probably has very many, many interests. They are interested in social reform, they are interested in all kinds of educational progress. But the opposition is basically interested in stopping handgun legislation at its core. I think we must keep in mind that this is a highly focused opposition and a very single-minded opposition. It's going to be very difficult to deal with.

MR. RECTOR: There is no question that a substantial number of people you are talking about are what we would call single issue voters, as well as the fact that lobbies are single issue lobbies. I noticed recently in the evening Star in Washington there was a feature article on the National Rifle Association that not only noted their \$4 million war chest, but indicated that they had more money than the AFL-CIO had, and they only had this one issue. They are viewed by the other lobbyists as having a luxury that most people will never obtain. They have that kind of money and that kind of support for one issue. It's just incredible.

The one thing I wanted to mention, getting back to the skewed view and being objective, is that you try to be objective, you try to be fair, you try



to give everyone an opportunity to participate. At the same time you want to make some progress in a certain direction or certain directions, so you do skew in one fashion or another the hearings, presentations, and what have you. Of course, there is a real danger in doing that. I give you an instance. We have had chiefs of police before our committee in the last four or five years, such as the good Commissioner here from Boston and from Atlanta and other major cities around the country. Press releases go out, wire service stories go out, indicating that the chiefs of police of the nation are for banning the handgun or for some similar approach. We get the clips back and we read them and say, "Right on". But what really happens is that the Congress Member calls the local chief of police and says, "Hey, Joe, did you see what's coming down here in the Senate?" And he says, "I wish someone would turn those fellows off. They surely don't represent our group and they surely don't represent the thinking here in Omaha, Nebraska," or wherever. So there's a real danger pushing it too far. You go to the International Association of Chiefs of Police and get a position from them, see what their position is this season on gun control. Chief Pomerance from Miami Beach was going to very courageously, as I understand it, pursue a resolution at their convention in Denver, and I think it was made very clear to him directly or indirectly that he would be sandbagged in that organization for the duration if he even proposed such a resolution. If our Subcommittee members have chiefs and others who don't share that perspective and perhaps have a perspective of the opposite, giving proper attention to those chiefs has a negative impact on any progress because you are raising the issue of where the police are on handgun control and you are finding out in many communities they don't share the perspective of the good Commissioner here from Boston or any of the others, and you've got to watch out for that.

One other thing I wanted to mention was Brian talked about "do-ability" and "accomplishability." Birch Bayh, in particular, is very much involved in that kind of endeavor. It is a coalition building effort, and we have to obtain at least a simple majority to get something through the Senate. Simple as that. You can philosophize and theorize about what should be done and all the rest of it, but if you come down with 49, they have got 51, it's all over. You can go home and write a book about it, but you are not going to get any legislation. So we are engaged in coalition building. I think it's a pragmatic approach. It's an approach that is not palatable to a lot of people here today who feel so strongly about it. But as far as we have been able to discern, it's the most successful approach.

MR. STEINBERG: (National Council for a Responsible Firearms Policy) A few very, very brief points. One is there is a dire need for coalition building in the gun control movement itself in support of something that is firm and fair and equitable and enactable and essential and that can have very far-reaching effectiveness. One of my deep concerns about the whole subject is the inadequacy of the gun control movement itself. There's a lot of educating to be done not just of the Congress, but educating the gun control movement itself as to practical strategies. Although all gun control advocates, or virtually all of them, love to refer to the public opinion polls as clearly supporting their position, the fact is that the gun control movement as a whole is not actively advocating the kind of gun control which the largest majority in the

public opinion polls seems to be advocating.

One more point. This came to mind when I heard Mr. Conboy make his remark about Sen. Javits' position regarding gun control. I have, as Mr. Conboy knows, the highest admiration for Sen. Javits on many counts, on many issues. But when a politician says openly and apparently sincerely that he or she really wants the banning of gun possession or of handgun possession, and then openly says, "But that isn't practical, you know, and, therefore, I'm going along with this kind of proposal and that kind of proposal," the credibility of that politician is zilch as far as this issue is concerned. If he or she advocates registration and licensing, the gun interests, not surprisingly, very logically, are saying, "He is going for registration and licensing, but he really wants a ban. When he gets the registration and licensing, he's going to go for a ban with registration lists already part of public policy so we are not going to give him one single inch on this issue."

So I have great reservations, on the one hand, about the way that politicians are articulating their position; and on the other hand, the way in which the gun control campaign is articulating its position.

MR. GRESSEY: (DISARM) John, I'd just like to know what percentage of the handguns now being manufactured for the private sector would be encompassed by the Bayh Saturday Night Special legislation?

MR. RECTOR: A little more than half. Treasury figures indicate it's 54 percent. If we had applied that approach in 1968, it would have eliminated the manufacture of about five million hand weapons; if we had been successful in 1972 in the House, it would have eliminated the manufacture of about three million weapons in the last couple of years.

MR. ORASIN: (National Council to Control Handguns) I know you have a difficult position. You have to face political realities. But our organization, a lot of the groups throughout the country, are looking at this question very seriously and we hear talk today of a bill coming out in January or February that might include a ban on Saturday Night Specials. That is one of the reasons we looked very closely at the Javits-Percy proposal. We were very discouraged and angered that this approach was not really treated that much in the Bayh Subcommittee. I don't know how many people here understand your factoring criteria, but explain what it will entail, what it will accomplish, and will there be a long-term effect?

MR. RECTOR: I don't think I would agree fully with your comment regarding the attention that the Javits-Percy bill received in the Subcommittee. The use of the Standard Metropolitan Statistical Area that was contained in their bill as a trigger for the ban on possession, including the ban on possession by business people, didn't have support from not just Birch Bayh, but a number of more liberal thinking people on the Judiciary Committee as well as people on other Committees in and out of Congress. As you no doubt understand, that proposal is basically Attorney General Levi's proposal. In a modified fashion, I think Levi would not have banned the possession in the home, would not have banned the possession for business people. We had a hearing, a specific

hearing, on the Javits-Percy bill. I think we found a number of things, including "and for other lawful purposes" exception, in the Javits bill. I don't know what assessment you gave to that when your group studied that bill and its impact, but the assessment we gave was it was a loophole large enough to drive a Sherman tank through.

I think you have to understand something. We are not going to, just because we happen to have a perspective that is probably closer to yours than the opposition, pass legislation on a whim. The impact is going to have to be demonstrated; and the reason we support the application of the sporting purpose criteria to domestic manufacture and assembly is because its application has been clearly indicated as applied to imports. The efficacy of that test has been clearly established, and we are not going to verify additional criteria unless those changes can be similarly demonstrated. The moment you do that without any firm support for the changes, you will sandbag yourself. I think the votes in the Senate in the past have indicated that. That is what we are interested in. We are interested in votes.

The criteria that we are talking about are criteria that were devised in 1968 and '69 to prohibit the importation of non-sporting handguns, primarily easily concealable handguns. I think acceptance of that test is in part at odds with the approach that you are suggesting because it recognizes that there are handguns which have legitimacy.

The criteria are very complicated. What we would like, if Treasury could provide that for us, is a list of the weapons that would be impacted. It is very difficult. For revolvers there are certain standards, for pistols there are certain standards. For revolvers there is a prerequisite of at least a three inch barrel. For pistols there is a prerequisite of an overall length of 10 inches.

You have to meet those prerequisites because the factoring criteria are applied. Then there are a host of factors, some based on caliber of the weapon and a number of other things that really go to the issue of concealability. So the acceptance of our approach, as I indicated, is not consistent with the total ban approach. We don't support the total ban.

MR. KING: (International Association of Chiefs of Police) I am Glenn King and I am the Executive Director of the IACP, the International Association of Chiefs of Police. I'm not in the fortunate position that John Gunther is in. My executive board has not told me what my personal convictions are. So we have not adopted a position on gun control.

It was not exactly as Mr. Rector indicated in our last conference in Denver. The question was brought up in executive committee there and rather than it being made a part of the overall issue of the conference, it was determined that a committee would be adopted within IACP to study the police chiefs' response to the total gun issue, gun control, gun registration, gun whatever, manufacture, importation.

No police chief in this country, nor does any other person, has the

ability to speak for the collective police chiefs. A committee has been appointed. We are able to identify within the police community those chiefs who are in favor of very strong controls and we are able to identify some who are opposed to almost any kind of control. Hopefully by our annual conference in Miami Beach this coming October, we will have a position and we will find out at that time what is the attitude of the American police chief towards gun control.

MR. CONBOY: I just wanted to comment on John's last response, characterizing the Bayh bill as a "partial ban bill." I can see how somebody might look at it and so characterize it. But I think the effect of the Bayh bill would be not so much to ban a significant portion of handguns used in violent crime, but rather to encourage the manufacture of bigger and better and more effective handguns.

Related to that, and in response to Mr. Steinberg, in introducing our bill Sen. Javits sought to introduce a new approach based upon the political reality. Again, a regional ban, if it were possible, applying to those areas of the country where there is the greatest political support for controls, coupled with a registration and licensing system, was worthy of debate and consideration. Our bill has been considered in both Judiciary Committees. We understand there are problems with it. But we do think the regional approach, together with a registration and licensing, is something you should think about. Incidentally, the regional approach would be a total ban in those areas: no possession, no sale, no dealing, from once the ban is applied. As the bill is now written, it would apply to 62 metropolitan areas.

MR. ALVIANI: Just briefly to return to an issue that Howard and Charlie raised, our fear of Saturday Night Special provisions is not totally speculative. There is a little precedent to understand how gun manufacturers can alter processes to fit the market as it appears. After the '68 law when there was a ban on the importation or sale of those non-sporting purposes handguns, there was an incredible increase in domestic manufacture to fill the vacuum that was created by the ban on importation. We are somewhat fearful that those same processes may be changed and you will just get an incredibly larger influx of those weapons that are not prohibited from production and distribution.

MR. RECTOR: Let me comment on two things, one regarding Mr. King. In '72 we had strong support from the Fraternal Order of Police and indications from IACP that focusing on weapons that are easily concealable and on those weapons that are used most frequently in crime would be a step in the right direction.

In response to the concern about the enterprising thoughtful manufacturers who would try to do an end run, that is entirely possible. It would be ludicrous to deny that an industry as innovative as that one would not try that. But the predication of Bayh's bill and a lot of similar bills is that concealability is a factor. If you look at it, a western style with a 10 or 12 inch barrel is not easily concealable and is not as amenable to be used in street crime in particular. None of this goes to the issue of people blowing their heads off in their homes. We are talking about street crime, and I think

we could make a very reasonable case to support our perspective in that context. On the other hand, Treasury statistics are supportive of the Project Identification, although we disagreed with the criteria they devised to describe the Saturday Night Special since they put in a cost criteria. But if you look at their assessment of their 10,000 or more weapons that were seized that had been actually used in crime, 70% had barrels of three inches or less. That's not just some wild coincidence.

MS. HELFGOTT: (Coalition for Handgun Control, Los Angeles) I'd like to respond to a couple of things that David Steinberg said. One had to do with the fact that the gun control groups supporting a ban are not responding to what the public states in the polls. Education of the public is very important. So many people are philosophically for "gun control" and maybe they will vote for registration or licensing. Many of them don't really understand what these processes mean or what the ramifications are. If they were to learn the statistics and learn the amount of damage that is caused by the handgun, it really wouldn't be much to swing them over to a total ban.

The other issue about whether the gun lobby will or will not give an inch. After debating with the opposition for about a year and a half, we find that there is really nothing that the opposition will give an inch on. Even if you are trying to extend your waiting period, they are going to fight equally as hard because they jump from that immediately to total confiscation of all guns. I don't think there is anything we can say to them or do, whether you are a legislator or a private citizen, to convince them.

MR. GUNTHER: Thank you very much. We are going to have a break in a minute, but I wanted to make a comment about some of the things that were said. I believe, having been an assistant to a Senator and having been working on Senators and Congressmen for 30 years, that you have got to deal with facts. I know when I was working for a Senator and some lobbyist would come in and give him one point of view, I'd try to figure out what side the guy was on, then I'd find the lobbyist on the other side and bring him in so the boss would know both sides. Also, what we try to do when we are lobbying is figure out what are the best arguments the other side has and state them and answer them.

I think the idea that lobbying takes place in Washington is erroneous. We just saw a bill vetoed by President Ford where the veto was based on the fact that the White House had received about 800,000 communications in a week, in 10 days, and that was the site picketing bill. Now, if anybody in the country understands that bill other than George Meany and the Labor Committee in the House and Senate, I don't know. But at least somebody was able to get 800,000 communications written, and I've seen some of them. They were not "Veto S.4911." They were dealing with the subject matter and I think that's the important thing. I think you have got the same kind of problem here with handguns. The problem is to get your people to contact their Senators and Congressmen to do something about this problem of guns. I believe that it is good that you people, you experts, keep talking about what they should do. But if you are going to try to get everybody writing in they should write about the subject of gun control. When I worked for a senator the thing that was the least effective -- my boss in fact wouldn't even look at the letter if it had a



number in it: "Vote for S.l." He knew that that was originated by some nut in Washington who wrote on it and said, "Write now on S.l." Those don't mean a thing to them. But gun control does. They understand what you are talking about.

Similarly, I don't agree with the proposition that you either get everything or nothing. If we had done that, we would still be arguing about whether we should have a \$3 minimum wage, which is what they were arguing back in the thirties when they passed the 40 cent minimum wage. Right now it is \$2.30 an hour. I think we get the best we can and from our point of view in the Mayors Conference we want a lot more than we are going to get. But I think you have got to still fight for whatever your organization's position is. You must try to get the best you can and the closest to it you can in your organization. What you think and what I think isn't always important. It is what those other people that you can reach think, and you can reach them a lot better than I. I have only got 756 cities over 30,000, and each of them only has one mayor, except maybe a couple of places in which two guys think they are mayor. That is what this meeting is all about, how do we really get many more people to tell Congress to do something about handguns this year. Thank you.

## YOUNG WOMEN'S CHRISTIAN ASSOCIATION (YWCA)

We support: Federal legislation providing for the licensing of all gun purchasers, users and owners and the registration of all firearms, including ammunition and all other of their component parts; and the banning for production, assembly, sale and possession of all handguns not used for such purposes as law enforcement, military and licensed guard use, sport shooting and hunting.

Statement as adopted at  
National Convention of the YWCA  
March 1973

## POLICY POSITIONS BY HANDGUN CONTROL ORGANIZATIONS

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### CITIZENS UNITED TO SAVE LIVES

Box 5038, Grosse Pointe Station, MI 48236

CUSL wholly believes total ban is the answer to the handgun problem. This citizen group is locally based, but has thousands of members throughout the state. Dwite Walker, President, directs CUSL in its support of local and federal legislation and in educating the public of the need for gun control.

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### CIVIC DISARMAMENT COMMITTEE FOR HANDGUN CONTROL

5532 South Shore Dr., Chicago, IL 60637

Lauri Fermi is Chairman of CDC, a citizens group in support of the ban on the manufacture, sale, interstate transportation, and private possession of handguns. CDC stresses public education and supports both state and federal legislation.

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### COMMITTEE FOR HANDGUN CONTROL

8455 Beverley Blvd., Los Angeles, CA 90048

The Committee is a statewide group whose aim is to support effective handgun control legislation and to promote an awareness of the dangers of the indiscriminate availability and usage of handguns. The Committee is using several means, including an initiative petition, in trying to achieve new state handgun control legislation. Dee Helfgott is Coordinator of the Committee which has as its members community, political, and religious leaders, as well as many Hollywood celebrities.

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### THE COMMITTEE FOR HANDGUN CONTROL, INC.

111 East Wacker Dr., Chicago, IL 60601

The Committee for Handgun Control, Inc. was organized in September, 1973. It is registered in the State of Illinois as a non-profit corporation and is a lobbyist in the United States Congress. Its purpose is twofold: first to bring to the attention of citizens the threat that the continued indiscriminate sale and use of handguns imposes on their society; secondly, to encourage legislation and effective enforcement which will ensure responsible and workable control over the importation, sale, and ownership of handguns. The Committee's sole concern is with the concealable weapon. Georgene Campion is President of the Committee for Handgun Control, Inc.

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### CRIME AND JUSTICE FOUNDATION

100 Franklin St., Boston, MA 02110

The Crime and Justice Foundation is a hundred year old multi-purpose criminal justice education organization (formerly the Massachusetts Council on Crime and Delinquency that published the handbook, "Shooting Gallery Called America") which supports strict handgun control. Copies of the handbook and "Ban Handgun" buttons are available at a minimal cost from the deputy director, John D. Carver.

## CRIMINAL JUSTICE INFORMATION CENTER

3510 Chester Ave., Cleveland, OH 44114

The Center provides the Greater Cleveland public with a wide range of information on criminal justice and crime prevention, including gun control. John J. Sweeney is the Director of the Center.

## DISARM

175 Fifth Ave., New York, NY 10010

DISARM has been in the forefront of the campaign for a national firearms policy. DISARM provides a regular distribution of material to members of Congress, provides speakers for the media, public events and debates, and publishes relevant material on firearm controls. Ramsey Clark is Chairman of DISARM; Bob Schwartz is Executive Director.

## GEORGIANS FOR HANDGUN CONTROL, INC.

P.O. Box 8273, Atlanta, GA 30306

GHC has as its goals the education of the people of Georgia on the problems caused by handguns and the mobilization of the public to support strict handgun control measures.

## THE GUN CONTROL FEDERATION OF GREATER CLEVELAND, INC.

1315 Terminal Tower, Cleveland, OH 44113

GCFC works to make its community a better place to live through responsible ownership of firearms, especially handguns. The President of GCFC is Joseph B. Clough.

## HANDGUN ALERT, INC.

P.O. Box 6771, Providence, RI 02940

Handgun Alert, Inc., is a non-profit, tax exempt corporation organized exclusively for research and education concerning handgun legislation. They offer assistance in the analysis and drafting of handgun legislation and ordinances. Mrs. Charles Potter is the President of Handgun Alert, Inc.

## NATIONAL COALITION TO BAN HANDGUNS

100 Maryland Ave. NE., Washington, DC 20002

The Coalition was formed for the purpose of banning the importation, manufacture, sale, transfer, ownership, and possession of handguns except in limited circumstances. The Coalition includes religious organizations, citizen groups, labor unions, educational organizations, public interest groups, and others. Jack Corbett is the Chairperson of NCBH.

## NATIONAL COUNCIL FOR RESPONSIBLE FIREARMS POLICY, INC.

1028 Connecticut Ave., NW., Washington, DC 20036

NCRFP is one of the oldest gun control advocates in existence. The NCRFP leads a national campaign for strict control of both handguns and long guns. David J. Steinberg is the Executive Director.

NATIONAL COUNCIL TO CONTROL HANDGUNS  
810 18th St., NW., Washington, D.C. 20006

NCCH is a Washington-based membership organization dedicated to the passage of effective handgun control legislation both on the federal and state level. This national citizen's lobby serves as the umbrella organization and clearinghouse for most of the regional handgun control groups throughout the country. Under the direction of Nelson T. Shields, NCCH has launched a program to establish the counter-lobby to the pro-gun forces. NCCH focuses exclusively on the hand-gun—the deadly, concealable weapon and favorite instrument in crime. NCCH has *NO* hidden agenda for controls on long guns which are used legitimately by some 20 million hunters and sportsmen. Consultants to NCCH include Dr. Milton Eisenhower, Lloyd Cutler, Dr. Russell Peterson, and former Governor Edmund G. Brown.

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PEOPLE VS. HANDGUNS  
Box 229, Newton, MA 02160

People Vs. Handguns is an non-profit citizens group dedicated to handgun control in Massachusetts. To achieve their goal, People Vs. Handguns is involved in the initiative petition process which will place the question of banning private possession of handguns on the state ballot in November 1976. If passed, it becomes law. In addition, the educational branch, People Vs. Handguns Education and Information, Inc., provides speakers for debates and educational materials for schools and interested groups. Judy Holmberg is the Executive Director.

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TENNESSEANS FOR HAND GUN CONTROL, INC.  
P.O. Box 40451, Nashville, TN 37204

Tennesseans for Hand Gun Control is a citizens group whose purpose is to support efforts toward strict handgun control legislation. Through public education—dialogue—increased awareness, THGC works to influence their legislators to address the serious problems created by the handgun in our society. THGC cooperates with and receives support from other groups working toward the same goal across the country. The Coordinator is D. M. Maillie.











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